

EXHIBIT 10
(PART 2 OF 3)

01:05:17 1 agreement he hadn't done any work or at
 01:05:19 2 least you didn't think he had done any work?
 01:05:22 3 A. Yeah, I mean there's an e-mail if you --
 01:05:24 4 there are some e-mails that indicate that he
 01:05:26 5 may have done some work in sort of roughly
 01:05:29 6 late November, early December. I haven't
 01:05:31 7 seen that work, so I can't say other than --
 01:05:34 8 Q. Okay. So I'm not really focused on the
 01:05:35 9 work --
 01:05:37 10 A. Right.
 01:05:37 11 Q. About that issue more before that second
 01:05:39 12 meeting, were any other terms about what he
 01:05:42 13 would get out of it discussed?
 01:05:43 14 A. Prior to the second meeting -- aside from
 01:05:46 15 the fact that he was part of our team, I
 01:05:48 16 don't believe any terms were discussed
 01:05:49 17 specifically until the second meeting.
 01:05:51 18 Q. Okay. And in the second meeting what were
 01:05:52 19 the terms that were discussed?
 01:05:54 20 A. In the second meeting the terms were
 01:05:57 21 effectively that it was a contribution
 01:06:02 22 partnership. Our contribution was marketing
 01:06:03 23 and promotion and strategy. His
 01:06:06 24 contribution was on the coding and
 01:06:08 25 programming level. And that -- and that,

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01:06:14 1 you know, the first sort of remuneration
 01:06:17 2 that he would receive from that would be, as
 01:06:19 3 I said, the benefit to his reputation. And
 01:06:23 4 we also talked about the -- you know, the
 01:06:29 5 potential of an advertising platform. And
 01:06:31 6 certainly if there's money that would come
 01:06:33 7 through with that, that it would be
 01:06:35 8 distributed among the partnership.
 01:06:39 9 Q. And so that specific point was discussed
 01:06:41 10 with Mr. Zuckerberg in that second meeting?
 01:06:43 11 A. At this -- this specific -- okay. I
 01:06:50 12 think -- at that point, right, the website
 01:06:53 13 was far from launched. So there's no actual
 01:06:56 14 revenue model, like it's not generating
 01:06:58 15 dollars on that day, okay? So he does work,
 01:07:02 16 and the first sort of compensation, the
 01:07:05 17 first light at the end of the tunnel is the
 01:07:06 18 prestige, the quasi celebrity status of
 01:07:10 19 being part of this great product all around
 01:07:14 20 campus and everybody knowing who you are,
 01:07:15 21 and then --
 01:07:16 22 Q. Hold on. And you discussed that issue with
 01:07:18 23 him?
 01:07:18 24 A. Right.
 01:07:19 25 Q. Now, what other issues --

01:07:19 1 A. Okay.
 01:07:20 2 Q. -- did you discuss about what he would get
 01:07:23 3 out of it?
 01:07:23 4 A. And then we also discussed and Victor
 01:07:25 5 discussed with him prior to this second
 01:07:27 6 meeting that it was -- there's a very large
 01:07:31 7 advertising potential. And Mr. Zuckerberg
 01:07:33 8 was fully aware of how sites work and hits
 01:07:36 9 and how that correlates to money. And we --
 01:07:41 10 he was certainly aware of --
 01:07:42 11 Q. Hold on. My question is, what did you tell
 01:07:44 12 him, not what you think he understood. What
 01:07:48 13 did ConnectU or HarvardConnection tell Mr.
 01:07:50 14 Zuckerberg about what he would get out of
 01:07:52 15 the deal?
 01:07:52 16 A. That he --
 01:07:53 17 Q. I got the reputation thing.
 01:07:53 18 A. Yeah.
 01:07:55 19 Q. What else did you tell him?
 01:07:56 20 A. That he would reap any and all benefits that
 01:07:59 21 would come along with being a part of the
 01:08:01 22 HarvardConnection team, whether it be
 01:08:04 23 monetary, money, prestige, fame, whatever it
 01:08:08 24 is, he would get any and all. It was
 01:08:12 25 completely explicit there.

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01:08:13 1 Q. And who said that?
 01:08:14 2 A. As I said, we talked about the potential for
 01:08:21 3 the site. He was -- we talked about the
 01:08:25 4 respective roles in the partnership --
 01:08:28 5 Q. No. My question's very simple. Who told
 01:08:30 6 him about the fact that he would be entitled
 01:08:33 7 to revenues from the partnership?
 01:08:35 8 A. Well, I think -- okay. I think by telling
 01:08:39 9 him that he's part of the team, okay, by
 01:08:42 10 telling him that he's a partner and that
 01:08:44 11 he's entitled to any types of remuneration,
 01:08:47 12 I think "any and all" applies specifically
 01:08:52 13 and non-exclusively to monetary benefits.
 01:08:54 14 Q. So there was no express statement to him
 01:08:57 15 that he be entitled to remuneration?
 01:09:01 16 A. See, what I'm saying is we didn't actually
 01:09:05 17 talk about -- we didn't spend a lot of time
 01:09:07 18 talking about advertising revenue at that
 01:09:08 19 meeting because that site wasn't even up,
 01:09:10 20 okay? What we talked about was getting the
 01:09:14 21 project done and getting it launched, and
 01:09:16 22 the most salient remuneration at that point
 01:09:21 23 was the benefit to his reputation. But that
 01:09:24 24 did not -- that was not exclusive or -- you
 01:09:27 25 know, to the fact that advertising money

01:09:29 1 would certainly be equally distributed, were
 01:09:33 2 and when it were to come in. So to answer
 01:09:36 3 your question, any and all remuneration
 01:09:39 4 based on the Web side, even if it was --
 01:09:42 5 Q. Okay.
 01:09:42 6 A. -- you know --
 01:09:43 7 Q. Finish your question -- finish your answer.
 01:09:46 8 A. So I'm saying while we didn't harp on the
 01:09:49 9 advertising or the revenue potential, it was
 01:09:51 10 certainly understood that any benefit from
 01:09:53 11 the site, specifically because he was a
 01:09:56 12 coder and involved with that aspect of it
 01:09:58 13 and was part of the time, would be his.
 01:10:00 14 Q. Okay. So did you tell him specifically that
 01:10:03 15 any benefit from the site he would be able
 01:10:06 16 to have a piece of?
 01:10:11 17 A. Okay. Any benefit from the site he would
 01:10:16 18 have a piece of, yes, being a partner of our
 01:10:20 19 team, yes.
 01:10:20 20 Q. And you told him that specific statement?
 01:10:23 21 A. That specific word by word? It was probably
 01:10:27 22 a fair -- it was probably different than
 01:10:29 23 that. It was probably more to the extent,
 01:10:32 24 "Look, you're on the HarvardConnection team.
 01:10:35 25 This is going to be great for your

01:11:43 1 partner in the situation because they put,
 01:11:44 2 you know, effort in. They go that extra
 01:11:46 3 mile.
 01:11:57 4 Q. Now, when you were -- did you ever tell Mr.
 01:12:01 5 Zuckerberg that he couldn't work on any
 01:12:04 6 competitive websites that were under
 01:12:07 7 development?
 01:12:08 8 A. Well, I think that -- I think certainly if
 01:12:22 9 there is a project. I mean, when you
 01:12:24 10 undertake a partnership, specifically did we
 01:12:30 11 say don't work on, you know, the exact same
 01:12:34 12 thing, well, I think that being part of the
 01:12:38 13 team and the partnership, you know, is
 01:12:41 14 proprietary. So he could not use a
 01:12:43 15 proprietary code or functionality to work on
 01:12:45 16 another similar website that had the same
 01:12:49 17 proprietary functionality and code. So that
 01:12:52 18 absolutely would be understood there, okay?
 01:12:55 19 Q. But was it stated?
 01:12:57 20 A. Was it specifically stated that I say, "You
 01:13:00 21 cannot work on another project exactly like
 01:13:05 22 this"? No, I did not say that.
 01:13:06 23 Q. Okay.
 01:13:06 24 A. However --
 01:13:07 25 Q. Go ahead.

01:10:36 1 reputation. We're all in this together.
 01:10:39 2 This is an equal partnership. And also,
 01:10:43 3 think of the enormous advertising potential
 01:10:45 4 this thing has."
 01:10:46 5 Q. And so you told him it was an equal
 01:10:48 6 partnership?
 01:10:48 7 A. Again, at that time, as I mentioned before,
 01:10:52 8 we didn't -- you know, he was brought on
 01:10:54 9 with -- he had the expectation that, you
 01:10:57 10 know, he was going to be part of the overall
 01:10:59 11 development and the control of the site and
 01:11:00 12 that at that point we divvied up the
 01:11:03 13 contributions and it was premature to talk
 01:11:05 14 about specific equity.
 01:11:06 15 Q. Why didn't you just hire him as a contractor
 01:11:08 16 like everyone else?
 01:11:10 17 A. Because we -- ultimately when you're looking
 01:11:14 18 for -- equity's a very good way of getting
 01:11:20 19 really the most out of a situation and
 01:11:23 20 people. And I think that, you know, Victor,
 01:11:27 21 to take Victor for example, we did want him
 01:11:29 22 as a partner, but he felt personally that he
 01:11:32 23 could not undertake the responsibility of
 01:11:38 24 being that, so he wanted to be contracted
 01:11:40 25 piecemeal. But ultimately you want a

01:13:08 1 A. However, as I said before, he was unable and
 01:13:11 2 not allowed to use the same proprietary
 01:13:13 3 information and functionality and business
 01:13:15 4 models and everything that we conveyed to
 01:13:17 5 him for another project like that.
 01:13:20 6 Q. Was he allowed to pull upon anything else --
 01:13:24 7 well, let me say, you knew that he was doing
 01:13:26 8 software projects for other people, right?
 01:13:28 9 A. I was aware of Facemash, and that's all I
 01:13:30 10 was aware of when we -- and that's all he
 01:13:33 11 made us aware of that he was involved in.
 01:13:35 12 Q. What about Coursematch?
 01:13:36 13 A. I had not heard of that prior to -- and he
 01:13:39 14 never brought that up.
 01:13:42 15 Q. Had you ever heard of it?
 01:13:42 16 A. I ever heard of it, yes.
 01:13:43 17 Q. What is it?
 01:13:44 18 A. I believe, my understanding is that
 01:13:47 19 Coursematch allows people to basically say
 01:13:51 20 what courses they're in, and then you can
 01:13:53 21 effectively tell what course a person's in
 01:13:55 22 from that website. But I've never been on
 01:13:57 23 it.
 01:13:57 24 Q. And are you aware about whether people who
 01:14:00 25 are taking similar courses can connect to

01:14:02 1 each other?

01:14:04 2 MR. HORNICK: On Coursematch?

01:14:05 3 MR. CHATTERJEE: Yes.

01:14:06 4 A. Again, I haven't seen the site. I was under

01:14:08 5 the impression that it was -- it allowed

01:14:10 6 people to match up -- they could sort of

01:14:15 7 list what course they're in and find -- I

01:14:19 8 don't know. I don't know the answer. I

01:14:20 9 know it involves people finding people in

01:14:22 10 the classes.

01:14:23 11 MR. HORNICK: I'll object that this

01:14:25 12 is outside the scope and also would require

01:14:27 13 that the witness have access to defendant's

01:14:30 14 confidential information which he hasn't

01:14:32 15 had.

01:14:33 16 Q. Are you aware -- do you know who created

01:14:36 17 Coursematch?

01:14:37 18 A. I'm under the impression that Mark

01:14:41 19 Zuckerberg, that was one of his projects.

01:14:42 20 Q. And do you know if he created it before ever

01:14:46 21 meeting with you or Divya Narendra?

01:14:49 22 A. I believe that he created it prior to

01:14:52 23 meeting with us, but at the time of meeting

01:14:55 24 and throughout our entire relationship he

01:14:58 25 never made us aware of that site.

01:16:07 1 Q. And would it be like match.com?

01:16:10 2 A. I don't think we looked at match. We looked

01:16:14 3 at Yahoo Personals, that's one salient one

01:16:18 4 that I can remember outside of Friendster.

01:16:19 5 Q. And what about American Singles?

01:16:22 6 A. I think that -- I logged onto American

01:16:26 7 Singles probably in post-February 2004, I

01:16:28 8 believe. I'm not sure if I looked at it

01:16:30 9 prior to -- during the time I met with Mr.

01:16:32 10 Zuckerberg. I don't recall.

01:16:34 11 Q. So it isn't ConnectU's position that looking

01:16:46 12 at other websites and as guidance on how to

01:16:49 13 develop your website, the information on

01:16:52 14 those other websites isn't anything that you

01:16:55 15 would claim as a trade secret?

01:16:57 16 MR. HORNICK: Objection, calls for

01:16:59 17 contention testimony, but you can answer.

01:17:01 18 A. Again, those other websites are in the

01:17:03 19 public domain, and they're -- you know, they

01:17:06 20 are what they are. They're there. And I

01:17:10 21 would not call a public website such as, you

01:17:12 22 know, friendster.com a proprietary thing. I

01:17:16 23 am -- yeah.

01:17:18 24 Q. And, in fact, in developing ConnectU, you

01:17:20 25 assessed Thefacebook to develop your website

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01:14:59 1 Q. Were you aware that in order to access

01:15:03 2 Coursematch, it required a dot-edu address?

01:15:07 3 A. Again, I haven't seen the site, so I don't

01:15:09 4 know. I can't...

01:15:16 5 Q. What websites -- in the course of the

01:15:18 6 development of HarvardConnection, what other

01:15:20 7 websites did you look at to develop that

01:15:23 8 website?

01:15:23 9 A. We looked at -- as I mentioned, we

01:15:27 10 bookmarked Friendster in our second meeting.

01:15:29 11 We talked about that. And we also looked at

01:15:31 12 some personal sites, because as you probably

01:15:35 13 know, a lot of thing -- a lot of what fuels

01:15:39 14 these types of sites is the sexual aspect,

01:15:41 15 the dating, finding that cute guy or girl in

01:15:44 16 your class and looking them up. So what

01:15:47 17 better to sort of find out what values that

01:15:51 18 people look at when they're looking at a

01:15:54 19 prospective mate or whatnot and personal

01:15:58 20 sites.

01:15:58 21 Q. When you say "personal sites," are those

01:16:00 22 dating websites?

01:16:01 23 A. Yeah, like Yahoo -- well, Yahoo Personals

01:16:04 24 would be one site that we looked at, Yahoo

1:16:06 25 Personals.

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01:17:25 1 with these features?

01:17:25 2 A. We looked at Thefacebook, yes.

01:17:28 3 Q. And you extracted course information from

01:17:32 4 ConnectU -- I mean, from Thefacebook?

01:17:34 5 MR. HORNICK: Object to the form of

01:17:35 6 the question and assumes facts not in

01:17:36 7 evidence.

01:17:36 8 A. Yeah, when collecting course information

01:17:40 9 there's basically two -- you know, it's

01:17:43 10 public course information that's posted by a

01:17:45 11 registrar from the school, and you can

01:17:47 12 either go to the registrar or you can go,

01:17:49 13 you know -- and Thefacebook had the courses.

01:17:51 14 So, yes, we did look at the courses which,

01:17:55 15 again, is public proprietary information,

01:17:59 16 and we collected that, yes.

01:18:01 17 Q. How did you collect it?

01:18:02 18 A. We just would like look at the file in a

01:18:07 19 text editor and just take the course file.

01:18:10 20 Q. Did you ever extract e-mails from

01:18:12 21 Thefacebook?

01:18:13 22 A. We -- yes, we have extracted e-mails from

01:18:17 23 Thefacebook.

01:18:18 24 Q. Isn't it true that you've extracted 2.9 to 3

01:18:21 25 million e-mails from Thefacebook because of

01:18:24 1 a security hole you found?
 01:18:25 2 MR. HORNICK: Objection. It's a
 01:18:27 3 misleading question, but you can answer it
 01:18:29 4 if you can.
 01:18:30 5 A. We have extracted e-mails basically just,
 01:18:38 6 you know, following -- an e-mail has a -- at
 01:18:45 7 that point they had a URL, and you could
 01:18:46 8 follow that URL and it's completely
 01:18:49 9 authorized -- it's not unauthorized access,
 01:18:52 10 and you can follow that URL to find an
 01:18:55 11 e-mail address, yes, you could. And we did.
 01:18:57 12 Q. So did you find a way to extract those
 01:19:01 13 e-mails without logging onto Thefacebook?
 01:19:06 14 MR. HORNICK: Objection. I think
 01:19:07 15 this is outside the scope. It's not
 01:19:09 16 30(b)(6) testimony.
 01:19:12 17 A. See, again, I don't remember -- I'm not a
 01:19:15 18 programmer, but it's my understanding that
 01:19:19 19 with unauthorized -- excuse me, with
 01:19:21 20 authorized -- without using unauthorized
 01:19:24 21 access those e-mails were accessible.
 01:19:25 22 Q. And ConnectU took them?
 01:19:28 23 MR. HORNICK: Object to the form of
 01:19:29 24 the question.
 01:19:29 25 A. What do you mean by take?

01:20:34 1 And as I said, we only used a portion of
 01:20:36 2 them, because only a portion of the users
 01:20:39 3 invited their friends.
 01:20:40 4 Q. Did you ever send e-mails to people based
 01:20:42 5 upon those e-mails, that e-mail database?
 01:20:47 6 A. That's what I just said, that if a user --
 01:20:51 7 Q. Let me rephrase that.
 01:20:52 8 A. Okay.
 01:20:53 9 Q. Independent of a user request, did you ever
 01:20:55 10 send an e-mail to people in that --
 01:20:59 11 A. With that bucket from the sort of open URL,
 01:21:04 12 no, we did not send unsolicited e-mails to
 01:21:06 13 those people.
 01:21:06 14 Q. Has ConnectU obtained any revenue to date?
 01:21:10 15 A. We have obtained some advertising revenue,
 01:21:13 16 yeah.
 01:21:13 17 Q. And how much revenue is that?
 01:21:17 18 MR. HORNICK: I'll object that this
 01:21:18 19 is outside the scope as well, but you can
 01:21:20 20 answer it. It's not 30(b)(6) testimony.
 01:21:22 21 A. I would say roughly no more than \$1,000 of
 01:21:30 22 revenue.
 01:21:30 23 Q. Okay.
 01:21:30 24 A. We haven't actively sought too much
 01:21:33 25 advertising at this moment.

01:19:31 1 Q. Extracted the information?
 01:19:32 2 A. ConnectU followed an open URL, "open" being
 01:19:36 3 that it was accessible with not having to
 01:19:41 4 use unauthorized access, it was accessible,
 01:19:44 5 out in the open, and ConnectU followed those
 01:19:46 6 URLs and was able to collect e-mail
 01:19:50 7 addresses.
 01:19:50 8 Q. And who did that?
 01:19:51 9 A. Winston Williams.
 01:19:52 10 Q. Winston Williams did that? And when did he
 01:19:55 11 do that?
 01:19:56 12 A. I believe he did it in the spring of this
 01:19:58 13 year.
 01:19:58 14 Q. Were those e-mails ever used by ConnectU?
 01:20:01 15 A. I think we used some of them with the Social
 01:20:06 16 Butterfly software.
 01:20:06 17 Q. And how were they used?
 01:20:07 18 A. If a friend used Social Butterfly and wanted
 01:20:11 19 to invite their friends, then they could do
 01:20:14 20 that with Social Butterfly. And they --
 01:20:16 21 Q. So when you -- once you had those e-mails,
 01:20:20 22 did you -- well, what did you do with them?
 01:20:22 23 A. We just held them in a holding bin, and if a
 01:20:29 24 user said, I would like to invite my friend,
 01:20:31 25 well, we would just invite their friends.

01:21:34 1 Q. How many users does it have?
 01:21:36 2 A. I believe we have 66,000 plus, thereabouts.
 01:21:40 3 Q. And does it -- does it have any university
 01:21:50 4 environments for California universities?
 01:21:54 5 A. Yeah, I believe we have California
 01:21:57 6 universities, I believe so.
 01:22:01 7 Q. Can you give me some examples?
 01:22:04 8 A. UC Berkeley, I think that.
 01:22:07 9 MR. CHATTERJEE: Let's mark this as
 01:22:08 10 Exhibit 5. I think we're on Exhibit 5.
 01:22:10 11 (Exhibit No. 5, Certificate of
 01:22:10 12 Registration, Bates Nos. C004842 - 4845,
 01:22:40 13 marked for identification.)
 01:22:40 14 Q. Mr. Winklevoss, what's been handed to you as
 01:22:42 15 Exhibit No. 5, do you know what this is?
 01:22:48 16 A. Looks like a copyright signover from Joseph
 01:22:57 17 Jackson to ConnectU and one from, I believe,
 01:23:05 18 yeah, looks like a copyright signover from
 01:23:08 19 Victor Gao, Sanjay, yeah.
 01:23:11 20 Q. What do you --
 01:23:12 21 MR. HORNICK: I'll object that this
 01:23:14 22 is outside the scope. This is not 30(b)(6)
 01:23:17 23 testimony.
 01:23:18 24 Q. What do you mean, "signover"?
 01:23:20 25 A. Well, I would think that they wrote the code

01:23:22 1 and they would say this is copyright code
 01:23:24 2 and it looks like copyright claim in
 01:23:28 3 ConnectU, so I would assume that they're --
 01:23:32 4 MR. HORNICK: I'll object to the
 01:23:34 5 extent that this calls for legal testimony
 01:23:37 6 from the witness and speculation.

01:23:38 7 MR. CHATTERJEE: I really only have
 01:23:39 8 one question associated with this.

01:23:41 9 Q. Do you have a signed agreement from these
 01:23:44 10 three people, Joseph Jackson, Victor Gao and
 01:23:47 11 Sanjay Mavinkurve assigning to ConnectU the
 01:23:50 12 rights to the code?

01:23:52 13 A. I believe we did. And the ability to use
 01:23:57 14 it, yes.

01:23:58 15 Q. You have a signed agreement from each one of
 01:24:00 16 those three people?

01:24:00 17 A. I believe on -- with Joseph and Victor we
 01:24:05 18 have a signed agreement, and we have a dual
 01:24:07 19 ownership with Sanjay, too.

01:24:12 20 MR. CHATTERJEE: Counsel, we have
 01:24:12 21 not seen that agreement in your pile.

01:24:15 22 MR. HORNICK: They've been
 01:24:16 23 produced.

01:24:19 24 Q. And when was that signed?

01:24:20 25 A. This would have -- I believe these would

01:25:22 1 think that complies with the 30(b)(6)
 01:25:24 2 notice. We'll save the meet and confer for
 01:25:26 3 another day.

01:25:27 4 Q. But pursuant to his objection, go ahead and
 01:25:29 5 answer it.

01:25:29 6 A. Well, as I -- yeah, as my counsel said,
 01:25:33 7 that, you know, I can't look at some of the
 01:25:35 8 documents under the protective order, but
 01:25:39 9 it's my understanding that Mr. Zuckerberg
 01:25:42 10 has claimed in the press to have programmed
 01:25:45 11 the website in under a week's time or
 01:25:48 12 approximately a week, and I have been
 01:25:50 13 advised that it's -- you know, the
 01:25:57 14 HarvardConnection code is not something --
 01:25:58 15 or a site of that magnitude is basically
 01:26:00 16 humanly impossible to code it. And I know
 01:26:04 17 that he had access to our code and had a
 01:26:07 18 block, so that's my belief that he
 01:26:11 19 basically, you know, used our copyrighted
 01:26:13 20 code.

01:26:16 21 Q. And who advised you that he couldn't do it
 01:26:18 22 that quickly?

01:26:19 23 MR. HORNICK: Objection to the
 01:26:21 24 extent that you have to reveal any
 01:26:22 25 communications with counsel, you don't have

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01:24:22 1 have been done, you know, roughly -- I mean,
 01:24:25 2 it says right here October 15th, but I would
 01:24:27 3 think we collected them last summer.

01:24:36 4 MR. HAWK: Yeah, we've looked for
 01:24:38 5 them. We haven't been able to find them if
 01:24:39 6 you produced them.

01:24:39 7 MR. HORNICK: I'll have to go back
 01:24:41 8 and take another look.

01:24:42 9 MR. HAWK: Yeah, I think you need
 01:24:43 10 to confirm that because I don't believe
 01:24:43 11 we've been able to find them.

01:24:54 12 BY MR. CHATTERJEE:

01:24:55 13 Q. Can you tell me, what is your basis for
 01:25:00 14 believing that Mr. Zuckerberg is infringing
 01:25:02 15 ConnectU's copyright?

01:25:03 16 MR. HORNICK: I'll object to this
 01:25:05 17 question to the extent that it calls for
 01:25:06 18 legal testimony, and also, the witness
 01:25:09 19 cannot testify on this topic to the extent
 01:25:11 20 that it would call for him to have access to
 01:25:14 21 the defendants' confidential information.
 01:25:16 22 But he can testify as to his general
 01:25:18 23 knowledge and understanding relating to that
 01:25:19 24 question.

1:25:20 25 MR. CHATTERJEE: Okay. I don't

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01:26:23 1 to answer that question, and shouldn't
 01:26:24 2 answer that question.

01:26:25 3 A. Yeah, I mean, that aside, I know how long it
 01:26:33 4 took a team of developers, you know, to
 01:26:35 5 build the social network in general, and
 01:26:37 6 just using basic logic dictates that one
 01:26:40 7 week's time is unreasonable, humanly
 01:26:44 8 impossible.

01:26:44 9 Q. Did you entertain the thought at all that he
 01:26:46 10 might have used code that he had written
 01:26:48 11 previously for other people?

01:26:49 12 A. Well, there's no real premise or basis to
 01:26:54 13 believe that any of the code or any
 01:26:56 14 significant portion of the code could have
 01:26:59 15 been used to code that site, and, yeah.

01:27:05 16 Q. And what knowledge did you have about Mr.
 01:27:10 17 Zuckerberg's use of any of the confidential
 01:27:12 18 information that you shared with him in
 01:27:14 19 developing Thefacebook?

01:27:17 20 MR. HORNICK: I'll object on the
 01:27:19 21 basis as I did before, that to the extent it
 01:27:21 22 calls for a legal testimony or contention
 01:27:23 23 testimony, this witness can't provide it,
 01:27:25 24 and also to the extent that that question
 01:27:26 25 would -- or this whole line of questioning

01:27:29 1 would require him to have access to
 01:27:31 2 defendants' confidential documents, he can't
 01:27:33 3 have access to that, but he can give you his
 01:27:35 4 general understanding of the facts that
 01:27:37 5 relate to that question.
 01:27:39 6 Q. Go ahead.
 01:27:39 7 A. So I believe the question is what
 01:27:45 8 understanding -- how do I have a belief that
 01:27:48 9 he used some of our proprietary business
 01:27:50 10 stuff -- methods?
 01:27:52 11 Q. Correct.
 01:27:52 12 A. Well, the belief -- I believe that we gave
 01:28:00 13 him access, full -- cart blanche to our code
 01:28:04 14 and our ideas, and I believe that a lot of
 01:28:07 15 those core ideas are embodied in his current
 01:28:10 16 website.
 01:28:11 17 Q. Okay. So list those for me.
 01:28:17 18 A. So some of the -- well, the idea, as I said
 01:28:20 19 earlier, like in the previous session,
 01:28:22 20 taking an on-line community down to the
 01:28:26 21 college level and then stringing it together
 01:28:28 22 with other communities, that would be one of
 01:28:31 23 the core ideas that we believe that is
 01:28:33 24 embodied by Thefacebook.
 01:28:35 25 Q. Any others?

01:29:33 1 A. And I said and there may be more that I
 01:29:35 2 can't recall off the top of my head right
 01:29:36 3 now.
 01:29:40 4 Q. Okay. Any other examples used by Mr.
 01:29:42 5 Zuckerberg of trade secrets that you know
 01:29:48 6 of?
 01:29:48 7 A. I think the first-mover advantage, we
 01:29:51 8 stressed that we should be out there first.
 01:29:53 9 Q. Anything else?
 01:29:54 10 A. I believe we talked about the -- how we
 01:30:03 11 would start at one school and branch out.
 01:30:06 12 Q. Anything else beyond that?
 01:30:07 13 A. I can't recall anything else right now.
 01:30:16 14 Q. Isn't it true that the original conception
 01:30:18 15 of the HarvardConnection was really about
 01:30:23 16 being a dating website?
 01:30:24 17 A. No. That's not true with respect to the
 01:30:29 18 fact that that was one aspect that you could
 01:30:32 19 use the functionality for.
 01:30:36 20 MR. CHATTERJEE: Let's mark this as
 01:30:37 21 Exhibit 6.
 01:30:37 22 (Exhibit No. 6, E-mail string,
 01:30:37 23 Bates Nos. C004792 - 4793, marked for
 01:30:57 24 identification.)
 01:30:57 25 Q. Take a look at this. Do you recognize this

01:28:39 1 A. A lot of the content issue and a lot of the
 01:28:42 2 whatever -- you know, a lot of the things
 01:28:44 3 that are necessary in order to create a
 01:28:46 4 community in such a manner.
 01:28:48 5 Q. Be a little more specific than that. What
 01:28:50 6 do you mean?
 01:28:50 7 A. Could you be a little more specific with
 01:28:52 8 your questions, like...
 01:28:53 9 Q. Well, you say that the content that's on
 01:28:55 10 Thefacebook.
 01:28:56 11 A. As I said before, the content with the
 01:28:59 12 fields of profiles, profile fields and that
 01:29:02 13 type of information, you know, student-
 01:29:08 14 related information.
 01:29:09 15 Q. Such as?
 01:29:09 16 A. Such as houses, educational, field,
 01:29:12 17 interests, thesis, you know, you name it.
 01:29:20 18 Q. Anything else you can remember? You said
 01:29:22 19 houses, thesis, courses --
 01:29:25 20 MR. HORNICK: You don't have to
 01:29:26 21 repeat your answer.
 01:29:27 22 Q. Yeah, I might have missed one. I'm just
 01:29:31 23 wondering if there are any others.
 01:29:31 24 A. I think I said interests.
 01:29:32 25 Q. Interests.

01:31:00 1 document?
 01:31:02 2 A. This looks like an e-mail.
 01:31:08 3 MR. HAWK: Neel, do you have an
 01:31:10 4 extra one?
 01:31:10 5 MR. CHATTERJEE: Sorry, Robert. I
 01:31:11 6 always forget about you.
 01:31:13 7 MR. HAWK: Thanks.
 01:31:15 8 (Witness reviews document.)
 01:31:35 9 A. Yeah. This looks like a forwarded e-mail
 01:31:37 10 from -- that my father wrote to me.
 01:31:40 11 Q. And do you recall the discussions around
 01:31:43 12 this e-mail?
 01:31:44 13 A. I think that basically what I recall is that
 01:31:50 14 this is -- this was my father's potential
 01:31:53 15 suggestion for what HarvardConnection might
 01:31:55 16 want to -- what kind of route you might want
 01:31:58 17 to go in.
 01:31:58 18 Q. And isn't it true that this e-mail is really
 01:32:02 19 talking about a dating function?
 01:32:05 20 MR. HORNICK: Objection, relevance.
 01:32:06 21 You can answer.
 01:32:07 22 A. Again, this is my father's -- he believed --
 01:32:12 23 you know, he was suggesting in this e-mail
 01:32:14 24 that HarvardConnection would -- could be a
 01:32:17 25 site that would help Harvard men and women

01:32:21 1 date. It was a suggestion, as I said, you
 01:32:23 2 know, a potential way in which the site
 01:32:26 3 could be directed.
 01:32:28 4 Q. Do you know what the conversations between
 01:32:30 5 Divya and your father were?
 01:32:34 6 A. I would assume that they had to do with the
 01:32:40 7 scope of the site and you know what the site
 01:32:42 8 should sort of function like and what it
 01:32:43 9 should be like to some extent, but I don't
 01:32:45 10 know exactly what their conversations were.
 01:32:51 11 Q. Did you have any follow-up conversations
 01:32:53 12 with your father about this e-mail?
 01:32:54 13 A. Well, I think for starters, I mean, the
 01:32:59 14 charging fee, I'm almost certain I would
 01:33:03 15 have -- I said that I would have told him
 01:33:05 16 that that was not a good idea and that we
 01:33:07 17 wouldn't do that. But I -- you know, I
 01:33:13 18 think we -- I don't recall specifically what
 01:33:16 19 the follow-up conversation to this would
 01:33:18 20 have been.
 01:33:18 21 Q. Isn't it true that there were other websites
 01:33:23 22 in existence prior to October 2003 that were
 01:33:29 23 social networks on a domain or university-
 01:33:31 24 specific basis?
 01:33:32 25 A. That might be true. At the time of 2003,

01:35:02 1 this e-mail, yes.
 01:35:04 2 Q. Describe what those conversations were.
 01:35:05 3 A. Like can I just read the e-mail first?
 01:35:07 4 Q. Oh, sure. I'm sorry, I thought you had
 01:35:10 5 already read it.
 01:35:12 6 (Witness reviews document.)
 01:35:37 7 A. Okay. Yeah.
 01:35:37 8 Q. So do you have a recollection about this
 01:35:40 9 e-mail?
 01:35:40 10 A. Yeah, I do. I do.
 01:35:42 11 Q. So describe your discussions with Mr.
 01:35:44 12 Narendra about this.
 01:35:46 13 A. Well, basically these are alumni websites,
 01:35:49 14 and I don't really recall exactly what
 01:35:53 15 specifically was on TigerLink or the Harvard
 01:36:01 16 Alumni Association, but I believe that we
 01:36:02 17 discussed that was one aspect that we could
 01:36:04 18 incorporate into the connect side of our
 01:36:08 19 network, and that would be -- you know,
 01:36:09 20 basically creating a venue and allowing --
 01:36:13 21 you making it able to accommodate alumni,
 01:36:18 22 but these are alumni-based sites.
 01:36:21 23 Q. So can you tell me what the differences were
 01:36:24 24 between what you were creating and what is
 01:36:27 25 shown on these various websites that Mr. --

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01:33:39 1 November 2003, to, you know, when we were
 01:33:45 2 speaking with -- there was -- there may have
 01:33:47 3 been on-line communities or forums or
 01:33:50 4 message boards for universities, but there
 01:33:52 5 was not a concerted effort to branch any of
 01:33:55 6 those out to other universities or
 01:33:57 7 communities, and there was no mention of any
 01:34:00 8 of those sites in our discussion from Mr.
 01:34:05 9 Zuckerberg or with him.
 01:34:07 10 MR. CHATTERJEE: So let's mark this
 01:34:09 11 as Exhibit No. 7.
 01:34:11 12 (Exhibit No. 7, E-mail, Bates No.
 01:34:28 13 C004791, marked for identification.)
 01:34:28 14 Q. Take a look at this e-mail.
 01:34:37 15 A. Uh-huh.
 01:34:38 16 Q. Have you seen this e-mail before?
 01:34:39 17 A. Yes.
 01:34:42 18 Q. Is your recollection that the date of this
 01:34:44 19 e-mail is roughly correct?
 01:34:45 20 A. Yeah, I would assume it's correct because
 01:34:49 21 it's the -- you know, the header of the
 01:34:51 22 e-mail.
 01:34:52 23 Q. Did you have conversations with Mr. Narendra
 01:34:54 24 about this e-mail?
 01:34:55 25 A. Yeah. We may have had conversations about

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01:36:30 1 A. Sure.
 01:36:30 2 Q. -- Narendra --
 01:36:32 3 A. Well, I believe, to my recollection, these
 01:36:35 4 are not social networks, and these are
 01:36:37 5 basically alumni -- these are exclusively
 01:36:41 6 for alumni. I'm not sure if you can gain
 01:36:44 7 access with a dot-edu or you have to apply
 01:36:48 8 it, but they're basically very narrow in
 01:36:51 9 scope, so to speak. They're not community
 01:36:53 10 sort of building tools, so to speak, or
 01:36:55 11 social networks for that matter.
 01:36:57 12 Q. Okay. Is there anything specifically that
 01:36:59 13 you can identify that differentiated these
 01:37:01 14 websites other than the fact that they
 01:37:06 15 weren't community-based but any other
 01:37:09 16 features that were different?
 01:37:10 17 A. I don't really recall what these exact
 01:37:13 18 websites hold, but, you know, as I said,
 01:37:15 19 they are websites specifically for alumni.
 01:37:18 20 They are not built for the interaction of
 01:37:20 21 alumni with undergrads or the undergrads
 01:37:24 22 with undergrads. They're also university-
 01:37:27 23 sponsored websites, so they are something
 01:37:30 24 that's set up by an alumni association.
 01:37:32 25 They are not independent of the university.

01:37:35 1 And they are also two-dimensional with
 01:37:37 2 respect to the fact that they're not social
 01:37:39 3 networks.
 01:37:39 4 Q. So people could tie together, is that --
 01:37:41 5 A. I don't believe that people do -- I believe
 01:37:43 6 that these are more of a sort of a direct
 01:37:47 7 listing in these things.
 01:37:48 8 Q. Are you speculating or did you know -- do
 01:37:50 9 you know that to be true?
 01:37:51 10 A. I'm almost certain at the time that there
 01:37:53 11 was no real social networking components to
 01:37:57 12 these websites.
 01:37:58 13 Q. Are you familiar with a company called Club
 01:38:02 14 Nexus?
 01:38:02 15 A. I've heard of that website, yeah, but I did
 01:38:05 16 not actually hear about it until the summer
 01:38:07 17 of 2004.
 01:38:08 18 Q. Do you know what it is?
 01:38:08 19 A. I believe it was a Stanford community.
 01:38:12 20 Q. And was it -- how was it different than what
 01:38:16 21 you conceived HarvardConnection to be?
 01:38:19 22 A. Well, I think in some ways it was similar.
 01:38:21 23 We're talking about a social network, an
 01:38:23 24 on-line community based at the college
 01:38:25 25 level. There was no mention of the site

01:39:40 1 A. As I said, I believe it launched before,
 01:39:42 2 probably in 2001/2002, but as I said before,
 01:39:48 3 I was not aware of it and none of us had
 01:39:50 4 come across that site until 2004.
 01:39:52 5 Q. Have you ever heard of a company called
 01:39:53 6 inCircle?
 01:39:55 7 A. I have heard of it now, but again, I was
 01:39:59 8 unaware of it at the time.
 01:40:00 9 Q. And what do you understand inCircle to be?
 01:40:02 10 A. I believe it's a social network, or it was.
 01:40:04 11 Q. And is it for, you know, university-specific
 01:40:08 12 communities?
 01:40:08 13 A. I believe it's a macro level social network.
 01:40:11 14 Q. Meaning what?
 01:40:12 15 A. Meaning anybody can join.
 01:40:14 16 Q. Anybody can join it.
 01:40:15 17 And so it's not for like college
 01:40:18 18 alumni or anything like that?
 01:40:19 19 A. I'm sure some of the people joining could be
 01:40:23 20 college alumni, but is it specifically
 01:40:26 21 geared towards that demographic? Does it
 01:40:28 22 require people with a college affiliation or
 01:40:30 23 an e-mail to sign up? I don't believe so.
 01:40:32 24 Q. Do you know when it was launched?
 01:40:35 25 A. I think I would say 2001/2002 maybe.

01:38:28 1 from our side. We had not heard of it, and
 01:38:32 2 there was no mention from Mr. Zuckerberg's
 01:38:34 3 side about the site. And also, as I pointed
 01:38:38 4 out, Club Nexus was a project specifically
 01:38:42 5 and only for Stanford students. It was not
 01:38:45 6 a project meant to branch out to other
 01:38:49 7 campuses or interconnect on a higher level.
 01:38:51 8 Q. And so the point of differentiation between
 01:38:58 9 Club Nexus and HarvardConnection is that
 01:39:01 10 HarvardConnection had a plan to roll out to
 01:39:03 11 other universities?
 01:39:04 12 A. You know, I haven't seen the Club Nexus
 01:39:08 13 website. I don't believe it's operational,
 01:39:09 14 so I can't tell you exactly piece by piece
 01:39:12 15 like what the difference between the
 01:39:14 16 websites are. I know it was basically a
 01:39:16 17 project by some students there. It was only
 01:39:18 18 intended for the Stanford community. That's
 01:39:21 19 where it stayed. That's where it died. I
 01:39:23 20 know that our project was a social network
 01:39:25 21 that was -- specifically the end goal was to
 01:39:29 22 leave Harvard and actually interconnect all
 01:39:32 23 the schools together. That was one of the
 01:39:34 24 major differences, I would say.
 01:39:35 25 Q. And do you know when Club Nexus launched?

01:40:39 1 Q. What about Affinity Engines; are you
 01:40:42 2 familiar with that company?
 01:40:43 3 A. I've heard of Affinity Engines, yes.
 01:40:47 4 Q. And what do they do?
 01:40:49 5 A. I believe they make alumni social networks.
 01:40:51 6 Q. And for specific alumni groups?
 01:40:54 7 A. Yeah. I believe they sell it to different
 01:41:00 8 universities.
 01:41:01 9 Q. And do you know when it was launched?
 01:41:03 10 A. No, but I think that some of the individuals
 01:41:07 11 involved with Affinity Engines were involved
 01:41:11 12 with Club Nexus.
 01:41:12 13 Q. And why do you think that?
 01:41:13 14 A. Because I spoke with one member of Affinity
 01:41:20 15 Engines. He just, you know, asked -- I
 01:41:23 16 think one day he asked me what, you know,
 01:41:25 17 just said hello in ConnectU and he mentioned
 01:41:29 18 that he -- I think he was involved with that
 01:41:30 19 project.
 01:41:33 20 Q. And do you know when Affinity Engines
 01:41:37 21 launched?
 01:41:37 22 A. I don't know, but, again, Affinity Engines
 01:41:40 23 is strictly an alumni-based company.
 01:41:44 24 Q. So what's the difference between Affinity
 01:41:47 25 Engines and your view of HarvardConnection?

01:41:50 1 A. Well, again HarvardConnection allows
 01:41:52 2 students to connect to students, students to
 01:41:56 3 connect to alumni, alumni to connect to
 01:41:56 4 students. I mean, it's not defined as an
 01:41:58 5 alumni social network, it's defined as a
 01:42:01 6 school social network. It's also not -- a
 01:42:05 7 company like Affinity Engines sells it to an
 01:42:10 8 alumni association. Ours is separate
 01:42:10 9 outside of the alumni association, and it
 01:42:12 10 allows student to student, student to
 01:42:13 11 alumni, et cetera.
 01:42:14 12 Q. Now, how could alumni sign on to
 01:42:17 13 HarvardConnection?
 01:42:18 14 A. They could get a post e-mail address which
 01:42:21 15 is now -- at this stage in the game is
 01:42:24 16 pretty much given to everybody by default,
 01:42:27 17 but let's say you were a class of '67 from
 01:42:30 18 Harvard when they didn't have e-mail. You
 01:42:33 19 could go to the Harvard web -- whatever
 01:42:34 20 website was and apply for a post e-mail and
 01:42:36 21 apply.
 01:42:37 22 Q. What's a post e-mail?
 01:42:39 23 A. Post just is a forwarding account, so if you
 01:42:41 24 go to Harvard, you can be a student and --
 01:42:43 25 you can get an e-mail for when you graduate

01:43:51 1 heard of them or mentioned any of that
 01:43:52 2 information to any other...
 01:43:57 3 Q. What about something called MIT Matchup;
 01:44:02 4 have you ever heard of that?
 01:44:03 5 A. I think maybe I did hear about that. I
 01:44:06 6 mean, I think that's basically -- again, I
 01:44:09 7 don't recall what that was, but I think that
 01:44:11 8 might have been just sort of a lottery shoot
 01:44:13 9 where you put in your e-mail maybe and it
 01:44:15 10 matches you up or something like that. But
 01:44:19 11 I don't know that site. I don't know --
 01:44:20 12 never saw it, don't really know to what
 01:44:22 13 extent --
 01:44:23 14 Q. Was it a dating site?
 01:44:25 15 A. It might have been. I think so. I don't
 01:44:29 16 know, though, exactly what...
 01:44:33 17 Q. And do you know where it was started?
 01:44:34 18 A. I would assume MIT.
 01:44:36 19 Q. Was it rolled out to Harvard or anywhere
 01:44:38 20 else?
 01:44:38 21 A. I don't know. And I think that, again,
 01:44:42 22 it's -- I think it was a very flat site in
 01:44:46 23 scope. I don't believe it was a social
 01:44:47 24 network. I think it was basically a lottery
 01:44:50 25 where you threw in -- maybe filled out some

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01:42:46 1 that you can specify pretty much any first
 01:42:50 2 part of the e-name. It could be, you know,
 01:42:52 3 your first name @post.harvard.edu, and so
 01:42:57 4 that would fulfill our Harvard.edu
 01:43:04 5 requirement.
 01:43:04 6 Q. Are you familiar with a group called CU
 01:43:06 7 Community?
 01:43:07 8 A. Yes, I've heard of CU Community, but, again,
 01:43:11 9 I did not hear about CU Community till
 01:43:14 10 spring of '04. I had not heard of it prior
 01:43:17 11 to meeting with Mr. Zuckerberg or during our
 01:43:20 12 meetings -- meeting.
 01:43:20 13 Q. And what was CU Community?
 01:43:21 14 A. I believe CU Community was basically a
 01:43:23 15 meeting place of some sort with -- allowing
 01:43:28 16 Columbia students to post information up
 01:43:29 17 onto the website like pictures, and maybe
 01:43:32 18 they had forums and whatnot.
 01:43:35 19 Q. Was it a social network?
 01:43:37 20 A. I don't know. I am not sure what -- I don't
 01:43:39 21 know if they were -- they allowed that
 01:43:41 22 functionality.
 01:43:41 23 Q. And do you know when they launched?
 01:43:44 24 A. As I said, they were before, I think. I
 01:43:49 25 believe they were in 2002, but we had not

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01:44:53 1 parameters, and, you know, it ran an
 01:44:55 2 algorithm and spit some stuff out.
 01:44:58 3 Q. What about Crimson Connection; are you
 01:45:02 4 familiar with that?
 01:45:02 5 A. No. I may have gone to that domain, but I
 01:45:06 6 don't believe -- I can't recall exactly what
 01:45:07 7 Crimson Connection is right now.
 01:45:10 8 Q. SEASCommunity?
 01:45:12 9 A. I believe SEAS is -- was either the
 01:45:16 10 precursor or the -- or after CU Community.
 01:45:20 11 Q. And do you know what SEASCommunity is?
 01:45:23 12 A. I believe it's the same sort of Columbia-
 01:45:25 13 based messaging board, website.
 01:45:30 14 Q. And Campus Network?
 01:45:31 15 A. I believe that's the further incarnation of
 01:45:34 16 SEAS, CU and then Campus Network.
 01:45:40 17 Q. Have you ever heard of Crimsonhookups.com?
 01:45:44 18 A. I think so, but I don't -- yeah, I've heard
 01:45:47 19 of it, but I don't know about its time
 01:45:48 20 frame. I don't know where it falls into
 01:45:50 21 play.
 01:45:50 22 Q. Do you know what it is?
 01:45:51 23 A. I would assume it's a dating site.
 01:45:54 24 Q. HarvardParties.com?
 01:45:56 25 A. Yeah, that's just a party directory, party

01:45:59 1 directory.
 01:45:59 2 Q. And did you ever sign on to it?
 01:46:01 3 A. I might have looked at it, maybe looked at
 01:46:05 4 some pictures, but that's just basically --
 01:46:07 5 it's an informational website. It's
 01:46:09 6 really -- there's no social networking.
 01:46:12 7 There's no -- that's a flat page.
 01:46:14 8 Q. And what about WesMatch?
 01:46:16 9 A. No, have not, have not heard about that.
 01:46:19 10 Q. Have you ever heard about it?
 01:46:21 11 A. I think I remember reading about that last
 01:46:23 12 spring.
 01:46:23 13 Q. And what is WesMatch?
 01:46:25 14 A. I think it's for Wesleyan University, and it
 01:46:29 15 matched people up for dating, I guess. I
 01:46:33 16 don't know, though. I'm -- I believe that's
 01:46:35 17 what it is.
 01:46:36 18 Q. And do you know how it was different, if at
 01:46:39 19 all, from HarvardConnection?
 01:46:41 20 A. Well, I don't -- I don't know if it had any
 01:46:45 21 social networking components. Clearly the
 01:46:48 22 name indicates that it started and stopped
 01:46:51 23 on Wesleyan, and I think that there was no
 01:46:57 24 plan to branch that out. And, again,
 01:47:00 25 that's -- HarvardConnection dating -- using

01:48:51 1 how would they know that they need to keep
 01:48:52 2 that information confidential?
 01:48:53 3 A. I think, you know, he certainly could have
 01:48:58 4 and would have instructed them that it was
 01:49:04 5 confidential information, and I think it was
 01:49:06 6 pretty clear that -- at that time period you
 01:49:08 7 also have to remember that when he was
 01:49:09 8 applying for jobs, we were given the
 01:49:12 9 impression by Mr. Zuckerberg that the site
 01:49:13 10 was close to launch in any event. So there
 01:49:18 11 was -- it was inconceivable that they were
 01:49:20 12 in a position to compete.
 01:49:23 13 Q. Okay.
 01:49:23 14 MR. HORNICK: I'll object that this
 01:49:24 15 is outside the scope and not 30(b)(6)
 01:49:25 16 testimony.
 01:49:49 17 Q. Did you ever hear Mr. Narendra tell these
 01:49:50 18 prospective employers that they should keep
 01:49:54 19 the information confidential?
 01:49:55 20 A. No, I --
 01:49:57 21 MR. HORNICK: Objection. This is
 01:49:59 22 not 30(b)(6) testimony. It's outside the
 01:49:59 23 scope, but you can answer it.
 01:50:03 24 A. I was not present during the employment
 01:50:04 25 meeting, so, no, I did not hear.

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01:47:04 1 the website for dating is one sort of part
 01:47:09 2 of the user functionality of the site.
 01:47:36 3 Q. Isn't it true that Divya Narendra never
 01:47:38 4 considered this information about a
 01:47:39 5 university-based community confidential?
 01:47:43 6 MR. HORNICK: I'll object to the
 01:47:44 7 form of the question, but you can answer it.
 01:47:46 8 A. No, I don't believe that he thought it
 01:47:48 9 was -- I don't believe that that was true.
 01:47:52 10 I believe that he did think that it was
 01:47:53 11 confidential.
 01:47:56 12 Q. Do you know who else Mr. Narendra talked to
 01:48:00 13 about this website development project?
 01:48:05 14 A. The only people that Divya have talked to in
 01:48:09 15 terms of website project would have been
 01:48:12 16 prospective programmers or programmers that
 01:48:15 17 we had and people, perhaps close, trusted
 01:48:23 18 friends maybe, to test parts of the site
 01:48:29 19 were clearly instructed that it was
 01:48:30 20 confidential, proprietary. And the only
 01:48:34 21 other people would have been perhaps one or
 01:48:38 22 two or maybe three prospective employers
 01:48:41 23 that he was interviewing with who couldn't
 01:48:44 24 possibly have been in a position to compete.
 01:48:46 25 Q. With respect to these prospective employers,

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01:50:06 1 MR. CHATTERJEE: Let's mark this as
 01:50:07 2 Exhibit 8.
 01:50:08 3 (Exhibit No. 8, E-mail, Bates No.
 01:50:34 4 C004810, marked for identification.)
 01:50:34 5 Q. Please read through this --
 01:50:36 6 A. Sure.
 01:50:36 7 Q. -- and let me know when you're done.
 01:50:39 8 (Witness reviews document.)
 01:51:42 9 MR. CHATTERJEE: Did I give you
 01:51:43 10 one?
 01:51:44 11 MR. HAWK: You did, yeah.
 01:51:49 12 (Witness reviews document.)
 01:51:54 13 A. All done.
 01:51:56 14 Q. Mr. Winklevoss, do you know how many people,
 01:51:59 15 prospective employers, or I'll use your
 01:52:03 16 term, "close, trusted friends" Mr. Narendra
 01:52:07 17 shared the HarvardConnection concept with?
 01:52:09 18 A. I think that maybe two or three people at
 01:52:14 19 major firms and maybe no more than a handful
 01:52:20 20 of close friends. So I would say you could
 01:52:23 21 probably count it on one to two hands.
 01:52:26 22 Q. Could it be as high as 10 prospective
 01:52:30 23 employers?
 01:52:30 24 MR. HORNICK: Objection. Don't
 01:52:32 25 speculate.

01:52:33 1 A. As I said, I'm aware that he --
 01:52:35 2 MR. HORNICK: It's outside the
 01:52:36 3 scope.
 01:52:36 4 A. I'm aware --
 01:52:38 5 MR. HORNICK: -- of the 30(b)(6)
 01:52:39 6 testimony. Sorry.
 01:52:40 7 A. I'm aware that he has talked to one -- I
 01:52:44 8 believe one employer about it. I know that
 01:52:45 9 for a fact. And I assume because he applied
 01:52:49 10 to I think two or three jobs, that he would
 01:52:53 11 have talked to two or three employers about
 01:52:54 12 it.
 01:52:55 13 Q. So it's at least two or three?
 01:52:56 14 A. I would say two or three, yeah.
 01:52:59 15 Q. Okay. And close, trusted friends,
 01:53:01 16 approximately how many?
 01:53:02 17 MR. HORNICK: Objection,
 01:53:02 18 speculation. You can answer if you know.
 01:53:05 19 A. I think probably two or three. I would say,
 01:53:09 20 yeah, but, again I can't say for sure.
 01:53:13 21 Q. Now, you said that there's one employer for
 01:53:17 22 certain that you know he discussed it with.
 01:53:20 23 Who is that?
 01:53:20 24 A. I think that he had -- I think I recall a
 01:53:23 25 meeting maybe when he was at Credit Suisse

01:54:31 1 story.
 01:54:31 2 Q. With no additional detail beyond that?
 01:54:33 3 A. No, I don't believe so.
 01:54:34 4 Q. And what about you?
 01:54:35 5 A. I believe the same way, yeah.
 01:54:37 6 Q. So you haven't talked with anyone other
 01:54:39 7 than --
 01:54:40 8 A. Some close friends were aware that I was on
 01:54:42 9 a website. They may have been aware that I
 01:54:45 10 was involved with the Harvard Community, but
 01:54:47 11 much more than that, no, I don't believe so.
 01:54:53 12 Q. And what about Sanjay Mavinkurve?
 01:54:56 13 A. To my knowledge, he has not spoken to
 01:54:59 14 anybody.
 01:55:01 15 Q. And what about Joe Jackson?
 01:55:06 16 A. To my knowledge, he had not, either.
 01:55:14 17 Q. But you don't know?
 01:55:15 18 MR. HORNICK: Objection, don't
 01:55:16 19 speculate. He gave you his answer.
 01:55:17 20 A. I don't know.
 01:55:19 21 Q. So if you can take a look at this document
 01:55:22 22 we've marked as Exhibit 8.
 01:55:24 23 A. Uh-huh.
 01:55:24 24 Q. Are there any confidential information of
 01:55:30 25 HarvardConnection that Mr. Narendra has

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1:53:25 1 that he might have talked to the employer
 01:53:27 2 then. But, again, I think he had
 01:53:32 3 conversations with two or three, but I don't
 01:53:34 4 know.
 01:53:34 5 Q. And do you know what friends he had the
 01:53:37 6 conversations with?
 01:53:37 7 A. Specifically, no. I mean, I think -- I
 01:53:45 8 don't know specifically, no.
 01:53:46 9 Q. What about Mr. Gao. Do you know if he
 01:53:48 10 discussed this with any prospective
 01:53:50 11 employers or any friends?
 01:53:53 12 A. I don't know that. He may have. I don't
 01:53:57 13 know.
 01:53:58 14 Q. And do you know if he -- if Mr. Gao had any
 01:54:02 15 discussions with people not affiliated with
 01:54:05 16 HarvardConnection?
 01:54:08 17 A. I could not say whether he did or not.
 01:54:10 18 Q. What about Tyler Winklevoss?
 01:54:12 19 A. I don't believe that Tyler did.
 01:54:14 20 Q. So he's never had any conversations with --
 01:54:17 21 A. Aside from -- aside from close -- like, as I
 01:54:20 22 mentioned before, close friends, he may
 01:54:22 23 have. Such as roommates may have said, "Oh,
 01:54:27 24 what are you doing?" And he might have
 1:54:28 25 said, "I'm working on a website," end of

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01:55:32 1 disclosed in this e-mail?
 01:55:36 2 A. Well, I think basically Mr. Narendra
 01:55:41 3 illustrates two potential possibilities of
 01:55:45 4 use for the site. It's by no means all-
 01:55:48 5 encompassing. I don't think he really
 01:55:54 6 expounds on anything that -- on anything
 01:56:01 7 proprietary here.
 01:56:04 8 Q. So it's your -- so what you're saying is
 01:56:07 9 there's nothing proprietary shared in this
 01:56:09 10 e-mail?
 01:56:10 11 A. Oh, well, you know, the whole -- the
 01:56:30 12 nightclub, the local club thing seems like
 01:56:33 13 that could be proprietary. The Harvard
 01:56:36 14 bands and promotional thing could be
 01:56:37 15 proprietary. With respect -- social hub
 01:56:44 16 might be proprietary. But, again, this is a
 01:56:48 17 close trusted friend. This is not somebody
 01:56:52 18 who -- you know, this falls under the
 01:56:55 19 individuals that I mentioned before.
 01:56:56 20 Q. Do you know who this person is that was sent
 01:56:59 21 this e-mail?
 01:56:59 22 A. Yeah, I believe he's a close friend of
 01:57:02 23 Divya's. And I think that -- I think that
 01:57:06 24 he's an individual that could be trusted.
 01:57:09 25 Q. And what's his name?

01:57:11 1 A. I believe the e-mail says it, Marko Soldo.
 01:57:14 2 Q. Do you know him?
 01:57:15 3 A. I do know him.
 01:57:15 4 Q. So how do you spell his name?
 01:57:18 5 A. M-A-R-K-O, S-O-L-D-O.
 01:57:22 6 Q. And do you know where he is now?
 01:57:24 7 A. He could be anywhere in the world. I don't
 01:57:28 8 know. He's not -- I don't -- I think he's
 01:57:34 9 Croatian perhaps and I don't know where he
 01:57:35 10 is.
 01:57:36 11 Q. Do you know if there are any follow-on
 01:57:38 12 discussions from this e-mail?
 01:57:38 13 A. Not that I'm aware of, I don't believe so.
 01:57:48 14 Q. Do you know why Mr. Narendra wrote this
 01:57:50 15 e-mail?
 01:57:50 16 A. As I said, you know, we may have talked --
 01:57:57 17 you know, mentioned it to a friend or two
 01:57:59 18 for testing of some sort, and it's possible
 01:58:03 19 that Divya wanted to hear his input in a
 01:58:09 20 trusted environment.
 01:58:11 21 Q. You've used this term, "trusted
 01:58:15 22 environment." What do you mean by that?
 01:58:16 23 A. I just mean that, as I said, close friends,
 01:58:19 24 you know, that were aware that this was a
 01:58:22 25 closely guarded project.

02:00:04 1 the e-mail?
 02:00:05 2 A. Yeah. It looks like she is an individual,
 02:00:07 3 you know, based on, you know, concentration,
 02:00:09 4 GPA, resume, presentation, black suit, that
 02:00:15 5 she would be a potential employer.
 02:00:19 6 Q. Is there any confidential information of
 02:00:21 7 HarvardConnection that's disclosed in this
 02:00:22 8 e-mail?
 02:00:22 9 A. There's potential with the local clubs and
 02:00:43 10 theaters being Harvard-specific, giving, you
 02:00:46 11 know, benefits to Harvard students. This
 02:00:50 12 selling skeletons to large universities and
 02:00:54 13 institutions that lack social alumni hub is
 02:00:57 14 one potential business sort of offshoot that
 02:01:00 15 you could do with the social network. But I
 02:01:05 16 don't see anything else or anything really
 02:01:06 17 that strikes me as proprietary.
 02:01:08 18 Q. But those things you just identified --
 02:01:11 19 A. Well, no, I mean, you can take a social
 02:01:13 20 network and sell it to a university that
 02:01:19 21 might lack a social network or an alumni
 02:01:21 22 network, for that matter, and that would be
 02:01:23 23 a business -- that would be a potential
 02:01:26 24 business model. I don't know if that would
 02:01:28 25 be proprietary.

01:58:24 1 Q. Is there anything on that e-mail that
 01:58:26 2 suggests to you that the information is
 01:58:29 3 confidential?
 01:58:30 4 A. I don't see anything in this e-mail that
 01:58:36 5 specifically says confidential.
 01:58:40 6 MR. CHATTERJEE: Okay. Let's mark
 01:58:41 7 this as Exhibit No. 9.
 01:58:43 8 (Exhibit No. 9, E-mail, Bates No.
 01:59:00 9 C004820, marked for identification.)
 01:59:00 10 Q. Take a look at it, and let me know when
 01:59:02 11 you're done.
 01:59:03 12 (Witness reviews document.)
 01:59:34 13 A. Uh-huh.
 01:59:34 14 Q. Do you know who Suzanne R. is?
 01:59:36 15 MR. HORNICK: Just I'll object that
 01:59:38 16 this is outside the scope, and it's not
 01:59:40 17 30(b)(6) testimony. You can continue.
 01:59:41 18 A. I believe that -- I think this lady is a
 01:59:45 19 potential employer.
 01:59:46 20 Q. And why do you think that?
 01:59:47 21 A. Because it sounds like she's giving a
 01:59:54 22 presentation to people at Harvard and
 01:59:56 23 there's the mention of a resume and offer of
 02:00:00 24 suggestions, so...
 02:00:01 25 Q. So you're surmising it from the content of

02:01:30 1 Q. And this concept that you talked about
 02:01:32 2 earlier of linking people from different
 02:01:35 3 universities together, when -- who came up
 02:01:38 4 with that idea?
 02:01:39 5 A. I think actually I might have come up with
 02:01:42 6 that idea.
 02:01:43 7 Q. And when did you come up with that idea?
 02:01:45 8 A. It was before Mr. Zuckerberg was on the
 02:01:50 9 team, and I think I actually came up with it
 02:01:52 10 when Mr. Gao was involved, and I think we --
 02:01:56 11 in fact, I remember the cell phone
 02:01:57 12 conversation we had in MicroCenter. And
 02:02:01 13 that was -- might have been the first time
 02:02:02 14 that I mentioned it to Mr. Gao.
 02:02:06 15 Q. Cell phone conversation at MicroCenter, what
 02:02:08 16 was that?
 02:02:08 17 A. That would have been in the fall like maybe
 02:02:11 18 September '04 -- '03.
 02:02:16 19 Q. And describe that phone call to me.
 02:02:18 20 A. I think I basically, you know, mentioned to
 02:02:21 21 Victor the potential of taking this to
 02:02:26 22 multiple universities and linking it
 02:02:28 23 together.
 02:02:28 24 Q. And what does MicroCenter have to do with
 02:02:32 25 this?

02:02:32 1 A. I just remember that I was there, that's
 02:02:34 2 all.
 02:02:34 3 Q. So you were at MicroCenter?
 02:02:37 4 A. On -- yeah, and I was leaving MicroCenter
 02:02:40 5 and I called him from my phone when I was
 02:02:42 6 leaving. And I just remember that instant
 02:02:47 7 in time, nothing else really relevant.
 02:02:49 8 Q. And did you have other -- well, let me ask
 02:02:53 9 this: Were all of your meetings about the
 02:02:58 10 HarvardConnection website in dorm rooms?
 02:03:01 11 MR. HORNICK: With whom?
 02:03:03 12 MR. CHATTERJEE: With anybody
 02:03:04 13 involved at HarvardConnection.
 02:03:05 14 A. I was --
 02:03:07 15 MR. HORNICK: Throughout the entire
 02:03:08 16 time period? That's your question.
 02:03:10 17 MR. CHATTERJEE: Yeah, let's narrow
 02:03:12 18 it a little bit. That's a fair point.
 02:03:13 19 BY MR. CHATTERJEE:
 02:03:13 20 Q. Through April of '03 -- or April '04, sorry?
 02:03:18 21 A. Aside from the two times that I met with
 02:03:21 22 Mark in the lunchroom --
 02:03:22 23 MR. HORNICK: Let's go back. You
 02:03:23 24 said April '04 -- up to April '04 or after
 02:03:27 25 April '04.

02:04:29 1 have been in a place where there would be
 02:04:31 2 public people who could readily observe the
 02:04:34 3 conversations.
 02:04:35 4 Q. In these dorm room meetings, were roommates
 02:04:38 5 there?
 02:04:38 6 A. They may have been, but, again, they were --
 02:04:43 7 these were pretty closed discussions, so,
 02:04:45 8 you know, you have suites, so you have
 02:04:48 9 individual rooms so just because there are
 02:04:50 10 other people in -- that inhabit a space does
 02:04:55 11 not mean that they were there partaking in
 02:04:57 12 the conversations.
 02:04:57 13 Q. Could they hear the conversations?
 02:04:59 14 A. I don't -- I don't believe -- I don't see
 02:05:03 15 any reason why they would have. We were in
 02:05:05 16 rooms that were closed off or their rooms
 02:05:07 17 were -- their doors were closed, whatnot.
 02:05:10 18 Q. So there weren't situations where all of you
 02:05:12 19 were -- like the roommates and everyone else
 02:05:14 20 was in the same room?
 02:05:15 21 A. No, it wasn't like a round table, if you
 02:05:17 22 will, where they were sort of listening and
 02:05:19 23 jumping in and partaking, no.
 02:05:21 24 Q. Well, I'm not even talking about partaking,
 02:05:24 25 just physically in the same room?

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2:03:28 1 MR. CHATTERJEE: Up until?
 02:03:29 2 MR. HORNICK: Up until April '04.
 02:03:30 3 MR. CHATTERJEE: So let me restate
 02:03:31 4 the question just so it's clear.
 02:03:33 5 BY MR. CHATTERJEE:
 02:03:33 6 Q. Before April '04 did you have any meetings
 02:03:37 7 in public areas with people about the
 02:03:38 8 HarvardConnection?
 02:03:38 9 A. The only two meetings that I had in a public
 02:03:43 10 area or that could sort of be considered as
 02:03:48 11 a quasi public area would have been the
 02:03:50 12 dining room with Mr. Zuckerberg. However,
 02:03:52 13 the dining room was in off hours and nobody
 02:03:55 14 else was in the dining room at the time. So
 02:03:59 15 it was effectively a closed room with no
 02:04:02 16 public observers.
 02:04:06 17 Q. Were the other meetings all in dorm rooms?
 02:04:08 18 A. I believe they were all in dorm rooms or in
 02:04:12 19 private, closed spaces without public
 02:04:14 20 people.
 02:04:14 21 Q. So other than dorm rooms, where were these
 02:04:19 22 other private, closed places?
 02:04:21 23 A. We may have met with Victor like in a room
 02:04:23 24 in Pforzheimer House like in a closed-off
 02:04:28 25 section of a room. But, again, it would not

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02:05:25 1 A. No, I believe that when we were in the same
 02:05:27 2 room, they were either -- had closed doors,
 02:05:31 3 were not part of the discussions.
 02:05:38 4 MR. CHATTERJEE: Let's mark this as
 02:05:41 5 Exhibit 9, and after this we'll take a
 02:05:43 6 break.
 02:05:43 7 MR. HORNICK: I think it's 10,
 02:05:45 8 isn't it?
 02:05:45 9 MR. CHATTERJEE: Maybe 10. I might
 02:05:47 10 have got my numbers off.
 02:05:50 11 (Exhibit No. 10, E-mail, Bates No.
 02:06:28 12 C003852, marked for identification.)
 02:06:28 13 (Witness reviews document.)
 02:06:28 14 Q. Mr. Winklevoss, what's been handed to you is
 02:06:34 15 Exhibit 10. Do you recognize this document?
 02:06:35 16 A. Yes, I do.
 02:06:35 17 Q. What is this?
 02:06:37 18 A. This is just an e-mail that I sent to Divya
 02:06:40 19 and Victor and when sort of looking at
 02:06:42 20 different Web URLs, I stumbled upon
 02:06:44 21 Crimson.org, and there was a construction
 02:06:46 22 sign at the time. And there was really no
 02:06:50 23 content, but there was the possibility,
 02:06:53 24 perhaps, that maybe these guys were -- or
 02:06:56 25 there was something -- sort of alumni

02:06:58 1 website that might have been launched. I
 02:07:00 2 think to this day that nothing has been
 02:07:02 3 launched.
 2:07:03 4 Q. Was there any content on it?
 02:07:05 5 A. As I said, there was a construction -- a guy
 02:07:07 6 with a hat saying "under construction."
 02:07:08 7 Q. Why were you concerned about that website?
 02:07:13 8 A. Same reason I would be concerned about any
 02:07:16 9 kind of first-mover advantage. There was
 02:07:19 10 a -- it looked like this was a site that was
 02:07:21 11 under construction and that perhaps these
 02:07:24 12 people were doing something that was
 02:07:26 13 somewhat related, and that's really the
 02:07:29 14 main -- that's why I would be concerned.
 02:07:31 15 Q. Do you know someone with the initials R.B.
 02:07:37 16 Scott?
 02:07:37 17 A. I don't know that person, but Divya does.
 02:07:40 18 Q. And who is that person?
 02:07:41 19 A. That's a close friend of Divya's that Divya
 02:07:44 20 worked with over the -- over one summer.
 02:07:47 21 And I believe he may have asked him if he
 02:07:51 22 wanted to become a part of the project at
 02:07:53 23 one point.
 02:07:53 24 Q. And do you know what his full name is?
 02:07:56 25 A. I believe his name is Rob Scott.

02:07:58 1 Q. Do you know where he's located?
 02:08:00 2 A. I think in California.
 02:08:02 3 Q. And do you know who he works for?
 02:08:04 4 A. I don't know that.
 02:08:06 5 MR. CHATTERJEE: Okay. Why don't
 02:08:07 6 we take a break.
 02:08:08 7 MR. HORNICK: Okay.
 02:08:09 8 MR. CHATTERJEE: We've been going
 02:08:10 9 for just about an hour.
 02:08:12 10 THE VIDEOGRAPHER: The time is
 02:08:14 11 2:08. This is the end of Tape No. 3, and we
 02:08:16 12 are off the record.
 02:08:19 13 (Recess taken.)
 02:21:38 14 THE VIDEOGRAPHER: The time is
 02:21:40 15 2:21. This is the beginning of Tape 4, and
 02:21:42 16 we are back on the record.
 02:21:44 17 BY MR. CHATTERJEE:
 02:21:44 18 Q. Mr. Winklevoss, we're back. Now, prior to
 02:21:51 19 February 2004, would you describe
 02:21:53 20 HarvardConnection as a business?
 02:21:56 21 A. Yeah, I would say it was a business entity,
 02:22:01 22 yeah.
 02:22:01 23 Q. Did you register that business with Harvard
 02:22:06 24 University?
 02:22:06 25 A. No.

02:23:10 1 the last -- over the summer, so I've known
 02:23:12 2 him pretty much throughout childhood.
 02:23:14 3 Q. And where does he work currently?
 02:23:16 4 A. He works in New York City.
 02:23:18 5 Q. And where?
 02:23:19 6 A. I don't know the name of the firm, but...
 02:23:28 7 MR. CHATTERJEE: Okay. Let's mark
 02:23:29 8 this as -- are we on Exhibit 11?
 02:23:32 9 MR. WALKER: Yes.
 02:23:33 10 MR. HORNICK: Yes.
 02:23:33 11 (Exhibit No. 11, E-mail, Bates No.
 02:23:49 12 C004841, marked for identification.)
 02:23:49 13 MR. HORNICK: Did you have a copy
 02:23:50 14 for me?
 02:23:50 15 MR. CHATTERJEE: Oh, I'm sorry, I
 02:23:51 16 thought I gave you one.
 02:23:57 17 Q. After you've read through this, let me know.
 02:23:59 18 A. Yeah.
 02:24:00 19 Q. Okay. So who is Rob Scott?
 02:24:02 20 A. As I mentioned before, he was a close friend
 02:24:07 21 of Divya. Divya, I believe, lived with him
 02:24:11 22 over his sophomore summer, and Divya I think
 02:24:13 23 in this e-mail might have looked to recruit
 02:24:17 24 him for additional manpower.
 02:24:19 25 Q. Other than Mr. Scott, was there anyone else

02:24:22 1 that was recruited for additional manpower?
 02:24:23 2 A. I may have asked Chris Lentz post-February,
 02:24:32 3 but prior to February 2004, aside from the
 02:24:37 4 people that we've discussed, Nate Rosenberg
 02:24:41 5 may have been approached. And who else? I
 02:24:50 6 think that was it.
 02:24:51 7 Q. Okay. So did Mr. Scott ever sign a
 02:24:53 8 confidentiality agreement with anyone from
 02:24:57 9 HarvardConnection?
 02:24:58 10 A. Not that I'm aware of, no.
 02:25:00 11 Q. Was he ever told not to disclose anything
 02:25:03 12 that he saw with anyone else?
 02:25:05 13 A. Yeah, as I said before, he was a close,
 02:25:08 14 trusted friend. I'm not sure if Divya --
 02:25:10 15 because I didn't have the conversation or
 02:25:12 16 talk to him, I don't know if Divya had that
 02:25:14 17 conversation with him. But, you know, he
 02:25:19 18 would have certainly fallen into the
 02:25:21 19 category of both, you know, close and
 02:25:23 20 trusted friend.
 02:25:24 21 Q. But you don't know if he was ever told,
 02:25:26 22 "Hey, don't share this with others"?
 02:25:28 23 A. I don't know if he was specifically told
 02:25:30 24 that.
 02:25:31 25 Q. Okay. So do you know if Mr. Scott ever

02:26:39 1 Q. Now, I notice that this is dated December
 02:26:43 2 23rd, 2003. That was after Mark Zuckerberg
 02:26:45 3 started working for you, right?
 02:26:46 4 A. Yeah, as I said, this individual would have
 02:26:49 5 been approached for additional manpower.
 02:26:53 6 Q. And did you have discussion about additional
 02:26:55 7 manpower being necessary?
 02:26:57 8 A. Well, I think it was clear at this time that
 02:26:58 9 Mark was pretty heavy with schoolwork, so
 02:26:58 10 while we certainly didn't want him not to
 02:27:00 11 be, you know, part of the team, you know, it
 02:27:04 12 did look like he was busy from time to time
 02:27:06 13 with problem sets and stuff. So I don't
 02:27:09 14 know if Divya mentioned this to Mark, but
 02:27:11 15 this individual would have been brought on
 02:27:14 16 on a contract basis.
 02:27:15 17 Q. And why do you say that?
 02:27:16 18 A. Just because, again, like this e-mail, you
 02:27:21 19 know, it's not saying, Do you want to be a
 02:27:23 20 partner, it's not saying, We need you to do
 02:27:26 21 huge blocks of code, it's basically saying,
 02:27:27 22 We might need a little help here, especially
 02:27:30 23 if we're going to go into exam period and
 02:27:34 24 whatnot. That's why I'd say that.
 02:27:37 25 Q. And it's your testimony today that these

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02:25:34 1 accessed the code?
 02:25:35 2 A. I think his only access was from sort of the
 02:25:40 3 URL. I don't believe that he had any server
 02:25:43 4 access.
 02:25:43 5 Q. Did you -- did you ever have conversations
 02:25:47 6 with Mr. Narendra about this e-mail?
 02:25:49 7 A. He may have mentioned that this -- that Rob
 02:25:54 8 was a potential extra manpower, but I don't
 02:25:58 9 remember having like an extensive
 02:26:00 10 conversation.
 02:26:01 11 Q. Do you have any understanding as to what Mr.
 02:26:04 12 Narendra meant when he said, "So the basic
 02:26:06 13 code is all there, but it needs a lot of
 02:26:08 14 cleaning up"?
 02:26:09 15 A. I think what he's saying there is that
 02:26:12 16 the -- well, the user -- a fair amount of
 02:26:16 17 work had been done, but it wasn't complete.
 02:26:18 18 It needed to be tied up. The date side
 02:26:22 19 seemed to be somewhat complete, but, you
 02:26:24 20 know, essentially the front needed to be
 02:26:27 21 tied to the back, and maybe parts of the
 02:26:29 22 back would be built out a little bit more,
 02:26:34 23 depending on -- you know, this e-mail was
 02:26:35 24 the 23rd, so depending on where the site was
 02:26:38 25 at that point.

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02:27:44 1 links didn't allow Mr. Scott to access the
 02:27:47 2 actual code?
 02:27:48 3 A. Yes, that's how it would -- that would be
 02:27:49 4 correct. These are just basic website URLs,
 02:27:53 5 yeah.
 02:27:56 6 Q. And by this point in time, December 23rd,
 02:27:58 7 2003, the date side was largely complete?
 02:28:03 8 A. I believe so, yes.
 02:28:11 9 Q. Have you ever heard of something called
 02:28:12 10 Tickle.com?
 02:28:13 11 A. I have. I did not hear about it till about
 02:28:18 12 February or March of this year.
 02:28:21 13 Q. And what is Tickle.com?
 02:28:23 14 A. I believe tickle is a social network that,
 02:28:26 15 you know, allows people -- again, it's a
 02:28:29 16 macro social network. I think people might
 02:28:32 17 be able to take certain tests, like
 02:28:35 18 personality tests or things to find out
 02:28:39 19 about themselves, more about themselves, but
 02:28:42 20 I don't know much more about that.
 02:28:43 21 Q. Did you say March of this year?
 02:28:44 22 A. Yeah.
 02:28:45 23 Q. So it wasn't March of 2004, it was March
 02:28:47 24 of --
 02:28:47 25 A. It would have been 2004, I believe, yeah.

02:28:51 1 MR. CHATTERJEE: Let's mark this as
 02:28:52 2 Exhibit 11.
 02:28:52 3 MR. HORNICK: 12.
 02:28:54 4 MR. CHATTERJEE: Or 12. I'm
 02:28:55 5 looking at that one that's right there
 02:28:57 6 (indicating).
 02:28:57 7 (Exhibit No. 12, E-mail, Bates No.
 02:29:41 8 C009556, marked for identification.)
 02:29:41 9 (Witness reviews document.)
 02:29:41 10 Q. After you've read it, let me know?
 02:29:43 11 A. Uh-huh.
 02:29:44 12 (Witness reviews document.)
 02:30:01 13 A. Yeah, uh-huh.
 02:30:01 14 Q. Okay. Does this refresh your recollection
 02:30:03 15 as to when you may have heard of it?
 02:30:06 16 A. Yeah, this e-mail -- I remember this e-mail,
 02:30:08 17 and I remember my father giving me a URL,
 02:30:11 18 and I believe at the time I went to the URL
 02:30:13 19 and it was not there. The site was not
 02:30:16 20 down, or I remember specifically that I
 02:30:18 21 could not find the site. I remember my
 02:30:20 22 father mentioning a Harvard grad had started
 02:30:24 23 sort of an IQ test or whatever. And I
 02:30:26 24 remember specifically being a little
 02:30:28 25 confused as to why, you know, I couldn't

02:31:45 1 Tickle.com other than what I saw in March of
 02:31:50 2 2005. My assumptions from this e-mail is
 02:31:53 3 that it was -- and from the current
 02:31:55 4 iteration of the site is that it had some
 02:31:57 5 sort of IQ test. But other than that, I
 02:32:00 6 know nothing about it.
 02:32:00 7 Q. You mentioned the name Nate Rosenberg?
 02:32:05 8 A. Uh-huh.
 02:32:05 9 Q. Do you know where he is now?
 02:32:07 10 A. No.
 02:32:08 11 Q. What discussions, if any, did you have with
 02:32:11 12 him?
 02:32:12 13 A. I think we simply asked him if he could
 02:32:15 14 code, what level of coding he could do, and
 02:32:21 15 that was it.
 02:32:22 16 Q. Did you describe to him anything about what
 02:32:24 17 you were doing?
 02:32:24 18 A. We may have -- yeah, we may have mentioned
 02:32:29 19 what we were doing, but it would have been
 02:32:30 20 under the, you know, assumption that it was
 02:32:33 21 proprietary and confidential.
 02:32:35 22 Q. Okay. Did you tell him it was proprietary
 02:32:38 23 and confidential?
 02:32:38 24 A. I believe that Divya may have told him,
 02:32:41 25 yeah. I didn't do a lot of the recruiting.

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02:30:30 1 find the site. But the reason I heard about
 02:30:33 2 it, the reason Tickle I imagine that I heard
 02:30:37 3 about it in March of 2005 there is because
 02:30:41 4 somebody mentioned that Tickle was purchased
 02:30:43 5 by Monster.com and it was a preexisting
 02:30:47 6 site, but I actually never saw it on this
 02:30:49 7 date or remember going to it at this point.
 02:30:54 8 So I think my instinct is that this was in
 02:30:56 9 between the transfer or something like that,
 02:30:58 10 but I had actually never gone and been on
 02:31:01 11 the site at that point.
 02:31:02 12 Q. Did you have any discussions about this
 02:31:04 13 website around March 8th, 2004?
 02:31:13 14 A. No. The only discussion about this e-mail
 02:31:14 15 was the idea of something like an IQ test or
 02:31:17 16 something cool that would drive traffic.
 02:31:20 17 And that was the only discussion. In fact,
 02:31:22 18 I wholeheartedly forgot this whole URL. And
 02:31:27 19 it was in fact Tickle. The only instance
 02:31:30 20 where I remember Tickle was the form that
 02:31:32 21 it's in now that I saw in March.
 02:31:35 22 Q. And do you have any idea how Tickle.com is
 02:31:41 23 different from what the HarvardConnection
 02:31:43 24 was conceived to be?
 02:31:44 25 A. Again, I don't know anything about

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02:32:43 1 Divya was the one who would have found Nate.
 02:32:47 2 Q. And so you don't know for certain whether
 02:32:50 3 anyone --
 02:32:51 4 A. I don't know for certain if Divya mentioned
 02:32:53 5 that -- said that to him, no.
 02:32:56 6 MR. CHATTERJEE: Okay. Let's mark
 02:32:58 7 this as Exhibit No. 13.
 02:32:59 8 (Exhibit No. 13, E-mail string,
 02:32:59 9 Bates Nos. C006955 - 6959, marked for
 02:33:00 10 identification.)
 02:33:17 11 Q. And actually, before I get to --
 02:33:17 12 A. Sure.
 02:33:20 13 Q. -- Exhibit 13, did Nate Rosenberg ever do
 02:33:23 14 any work for you?
 02:33:23 15 A. No.
 02:33:26 16 Q. And do you know why?
 02:33:28 17 A. I don't think he had the qualifications. Or
 02:33:29 18 rather he said he didn't have the time, but
 02:33:31 19 I don't think he had the qualifications.
 02:33:33 20 Q. Prior to February 2004 do you know if anyone
 02:33:40 21 affiliated with ConnectU said in writing
 02:33:43 22 that any of its information was
 02:33:46 23 confidential?
 02:33:47 24 A. In writing I don't know of any document that
 02:33:54 25 says that.

02:33:56 1 Q. Okay. So is the answer no?
 02:33:57 2 A. The answer is, in writing the answer is no.
 02:34:03 3 Q. So all of the indications that the
 02:34:05 4 information was confidential was stated
 02:34:09 5 orally?
 02:34:10 6 A. It was either stated orally through the
 02:34:13 7 various either collage of e-mail, and as
 02:34:16 8 your client has, you know, indicated that,
 02:34:20 9 yes, that -- and for whatever inferences
 02:34:24 10 that your client had stated --
 02:34:26 11 Q. I'm not worried about my client. What I'm
 02:34:28 12 wondering is, you know, is the only
 02:34:31 13 indication that the information was
 02:34:33 14 confidential based upon words the people
 02:34:37 15 used, "Don't share this with others," things
 02:34:40 16 like that?
 02:34:40 17 A. It would have been primarily orally, yes.
 02:34:42 18 Q. Okay. Were there any other ways that it was
 02:34:44 19 expressed?
 02:34:44 20 A. Aside from the group of e-mail, I don't
 02:34:47 21 believe so.
 02:34:47 22 Q. If you can take a look at Exhibit 13.
 02:34:58 23 A. Uh-huh.
 02:35:07 24 (Witness reviews document.)
 02:35:14 25 A. Where exactly?

02:36:50 1 and compares how many people you are on --
 02:36:55 2 how many screen name lists that you're on,
 02:36:58 3 if that makes sense. So --
 02:37:00 4 Q. Explain it further. I'm not --
 02:37:02 5 A. Okay. So my understanding is that it would
 02:37:04 6 take -- you would upload your buddy list to
 02:37:07 7 buddyzoos, the website, I guess it was, and
 02:37:10 8 then it would take a look and see how many
 02:37:12 9 other buddy lists that your name is on of
 02:37:18 10 other people's and then tally up a score of
 02:37:22 11 some sort, I think.
 02:37:23 12 Q. And what is a buddy list?
 02:37:25 13 MR. HORNICK: Object to this line.
 02:37:28 14 It's outside the scope and is not 30(b)(6)
 02:37:30 15 testimony.
 02:37:30 16 Q. And what is a buddy list?
 02:37:31 17 A. Oh, AOL Instant Messenger, you have sort of
 02:37:34 18 a list of screen names.
 02:37:35 19 Q. Okay. So if you can turn to Page C006957.
 02:37:44 20 A. 6957, yeah.
 02:37:46 21 Q. If you see at the top of the page there's an
 02:37:51 22 e-mail from Christopher Lentz, and in the
 02:37:54 23 third paragraph he says, "I'm sure you know
 02:37:56 24 about Daily Jolt."
 02:37:59 25 A. Uh-huh.

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02:35:16 1 Q. Well, let's start with on Page C6956.
 02:35:21 2 A. Okay.
 02:35:28 3 Q. If you look about two-thirds of the way down
 02:35:30 4 the e-mail on the second half of the page --
 02:35:33 5 A. Uh-huh.
 02:35:33 6 Q. -- it says, "He also worked on buddyzoos."
 02:35:37 7 Do you know, what is "buddyzoos"?
 02:35:42 8 A. Let me just read this for a second.
 02:35:45 9 (Witness reviews document.)
 02:36:13 10 A. Yeah. I mean, again, I just thought I would
 02:36:15 11 point out the team working on the site is
 02:36:18 12 myself, Tyler, Mark and my friend Divya. So
 02:36:22 13 there's a -- to further clarify, another --
 02:36:24 14 no, I'm just --
 02:36:24 15 Q. Just answer --
 02:36:24 16 A. I understand.
 02:36:25 17 Q. -- my question.
 02:36:25 18 A. I understand. I'm sorry.
 02:36:26 19 Q. I just want to know what "buddyzoos" is.
 02:36:29 20 A. Okay. Buddyzoos is -- Mark mentioned that
 02:36:33 21 site, and I believe -- he says he had a part
 02:36:39 22 in it. I don't see any mention on the site
 02:36:42 23 of him being a part of it, so I don't know
 02:36:44 24 whether he is a part of it. But I believe
 2:36:47 25 it takes your buddy list, your screen name

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02:37:59 1 Q. And it says, "also check out
 02:38:01 2 <http://basement.dartmouth.edu/>."
 02:38:06 3 Do you know what those are?
 02:38:07 4 A. The Daily Jolt is basically a message board
 02:38:10 5 for schools. I think it started either at
 02:38:13 6 Brown or Amherst. And I actually continue
 02:38:19 7 don't know what the basement in Dartmouth
 02:38:21 8 is. I don't know if I ever actually looked
 02:38:23 9 at that site.
 02:38:24 10 Q. And how did the Daily Jolt differ from what
 02:38:28 11 HarvardConnection was trying to do?
 02:38:29 12 A. There's nothing in the Daily Jolt that's
 02:38:32 13 any -- to my knowledge, is a social network.
 02:38:35 14 It's basically a message board. Students
 02:38:37 15 post things, and other students respond and
 02:38:39 16 comment.
 02:38:41 17 Q. So if you can look at the next -- it looks
 02:38:44 18 like there's another e-mail string. It
 02:38:47 19 says, "On Monday, December 15, 2003, at 3:28
 02:38:53 20 p.m., Cameron Winklevoss wrote."
 02:38:53 21 A. Uh-huh.
 02:38:54 22 Q. Do you see that? Beneath that, did you
 02:38:59 23 disclose anything that ConnectU or
 02:39:01 24 HarvardConnection says this is confidential
 02:39:04 25 information?

02:39:04 1 MR. HORNICK: And read it
 02:39:06 2 carefully, Cameron.
 02:39:07 3 THE WITNESS: Yeah.
 02:39:07 4 (Witness reviews document.)
 02:39:35 5 A. This -- yeah, this may, in fact, be
 02:39:56 6 proprietary information, but I will point
 02:39:57 7 out that myself and Mr. Lentz were engaged
 02:39:59 8 in business activities at this point. And
 02:40:05 9 he had a company called Greenwave Wireless,
 02:40:07 10 which --
 02:40:07 11 Q. I understand. My question's very, very
 02:40:09 12 simple. It's -- and I'll restate it --
 02:40:09 13 MR. HORNICK: Object.
 02:40:12 14 Q. -- in case it was unclear.
 02:40:13 15 MR. HORNICK: Well, actually, the
 02:40:14 16 witness answered the question.
 02:40:15 17 MR. HAWK: No, he didn't. He said
 02:40:17 18 this may be or something like that.
 02:40:18 19 MR. HORNICK: That was his answer.
 02:40:19 20 MR. CHATTERJEE: Well, let's not
 02:40:20 21 argue about it. I'm going to ask the
 02:40:21 22 witness a question. He's going to answer
 02:40:22 23 it, and, you know, if he's non-responsive,
 02:40:24 24 we'll go to court on it.
 02:40:26 25 MR. HAWK: We don't want something

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02:40:27 1 like may be. We want an answer to the
 02:40:27 2 question.
 02:40:27 3 BY MR. CHATTERJEE:
 02:40:29 4 Q. What is --
 02:40:29 5 MR. HORNICK: He gave his answer.
 02:40:30 6 Q. What is the confidential ConnectU/
 02:40:34 7 HarvardConnection information that is
 02:40:35 8 disclosed in this e-mail?
 02:40:37 9 A. This -- the concept of a portal with
 02:40:42 10 controllable sort of content is a
 02:40:46 11 proprietary information; however, I believe
 02:40:49 12 at this time I had a nondisclosure with Mr.
 02:40:51 13 Lentz as well as an oral agreement and
 02:40:54 14 understanding that this was completely
 02:40:58 15 confidential and proprietary. So that
 02:41:00 16 answers your question.
 02:41:01 17 Q. So did you have a written agreement with
 02:41:02 18 him?
 02:41:02 19 A. I would have to check. I'm not sure. But
 02:41:04 20 I'm certain that Mr. Lentz -- we had an oral
 02:41:08 21 agreement.
 02:41:08 22 Q. Have you talked with Mr. Lentz about this
 02:41:10 23 litigation at all?
 02:41:11 24 A. He's aware that we're in a lawsuit. I have
 02:41:17 25 not really talked to him since we spoke in

02:41:22 1 December, and then we didn't really -- about
 02:41:23 2 this specific litigation other than, you
 02:41:26 3 know, Are you suing them, yes, no, not
 02:41:28 4 really, no, I don't believe so.
 02:41:31 5 Q. Is there anything in the content of this
 02:41:33 6 e-mail that indicates that it's
 02:41:35 7 confidential?
 02:41:36 8 MR. HORNICK: Which e-mail are you
 02:41:37 9 talking about?
 02:41:37 10 MR. CHATTERJEE: This string.
 02:41:38 11 MR. HORNICK: The whole thing?
 02:41:39 12 MR. CHATTERJEE: The entire
 02:41:40 13 document.
 02:41:40 14 MR. HORNICK: Read through it,
 02:41:41 15 Cameron.
 02:41:42 16 Q. Take your time.
 02:41:43 17 A. Okay.
 02:41:43 18 (Witness reviews document.)
 02:44:40 19 A. I think, as I said before, the portal
 02:44:44 20 concept and the multiple schools is a
 02:44:46 21 proprietary piece of information, but as I
 02:44:48 22 also said, we were discussing here a
 02:44:51 23 potential business synergy and relationship,
 02:44:54 24 and we would have been covered and would
 02:44:56 25 have -- it would have all been protectable

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02:44:59 1 information. This is not someone that I'm
 02:45:01 2 just spilling something to.
 02:45:03 3 MR. CHATTERJEE: Could you please
 02:45:05 4 read my question back.
 02:45:09 5 (Record read.)
 02:45:19 6 A. Oh, okay. Excuse me. I don't believe
 02:45:27 7 there's anything in these e-mails that
 02:45:30 8 indicate that it's confidential, no.
 02:45:31 9 MR. HORNICK: I should state for
 02:45:33 10 the record, though, that I think this e-mail
 02:45:35 11 also contains confidential information of
 02:45:38 12 Mr. Lentz.
 02:45:40 13 Q. And before these e-mails were exchanged, did
 02:45:43 14 you have any conversations with Mr. Lentz?
 02:45:45 15 A. Yeah. And Mr. Lentz -- before or -- sorry,
 02:45:49 16 was the question before?
 02:45:50 17 Q. Before this e-mail exchange occurred.
 02:45:53 18 A. We may have talked on the phone. I would
 02:45:56 19 assume that we would have talked on the
 02:45:58 20 phone.
 02:45:59 21 Q. And so you're not sure? You don't remember?
 02:46:01 22 A. I don't know the -- like if it started as an
 02:46:04 23 e-mail -- I mean, if it started as an e-mail
 02:46:08 24 dialogue, then we would be reading that. So
 02:46:10 25 I'm assuming that -- in fact, no, I remember

02:46:12 1 that we spoke in person. Initially he
 02:46:17 2 mentioned he had a wireless business. And I
 02:46:20 3 said, "Oh, that sounds interesting." And
 02:46:21 4 then I think we may have talked and tried to
 02:46:24 5 set up some sort of discussion.
 02:46:25 6 Q. And so prior to sending this e-mail, it's
 02:46:27 7 your testimony that you had an agreement
 02:46:29 8 with him that all the information that
 02:46:32 9 you're talking about --
 02:46:32 10 A. Right.
 02:46:33 11 Q. -- was confidential?
 02:46:34 12 A. An oral agreement that is confidential
 02:46:37 13 between the co-parties, absolutely, yeah.
 02:46:38 14 Q. So the two of you had that agreement --
 02:46:38 15 A. Uh-huh.
 02:46:40 16 Q. -- before any e-mails were exchanged?
 02:46:42 17 A. Sure, yeah. I mean, as I said, he has a
 02:46:43 18 business, a wireless business. He sent over
 02:46:46 19 a lot of information, a lot of material. He
 02:46:47 20 had a partner, and it was -- you know, he
 02:46:52 21 had a lot of protectable information on the
 02:46:53 22 table, too.
 02:47:00 23 Q. So after your relationship ended with Mark
 02:47:02 24 Zuckerberg, who did you get involved with
 02:47:04 25 next on the programming side?

02:48:13 1 (Exhibit No. 14, E-mail with
 02:48:13 2 attachment, Bates Nos. C003587 - 3603,
 02:48:55 3 marked for identification.)
 02:48:55 4 MR. HORNICK: I'll note for the
 02:48:56 5 record that you have a document range in
 02:48:58 6 this exhibit of C3587 through 3603.
 02:49:04 7 Q. Yeah, there's something misattached. Let's
 02:49:06 8 just take off the section with the green
 02:49:08 9 page afterwards. Sorry about that.
 02:49:08 10 A. Okay. So --
 02:49:10 11 Q. Didn't notice that before.
 02:49:22 12 A. (Witness complies.)
 02:49:23 13 Q. Great. Thank you. Do you know what this
 02:49:26 14 document is, Mr. Winklevoss?
 02:49:27 15 A. It looks like a site map of some sort.
 02:49:28 16 Q. Is it the site map to the HarvardConnection
 02:49:37 17 website?
 02:49:37 18 A. Let me think. This would be a site map.
 02:49:38 19 Yeah, it's a little jumbled here. But I
 02:49:43 20 think it was basically the HarvardConnection
 02:49:44 21 site and what we -- yeah, what we'd like
 02:49:48 22 them to build.
 02:49:50 23 Q. Was this the same thing that you wanted Mark
 02:49:53 24 Zuckerberg to build, or were there changes
 02:49:55 25 made?

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02:47:07 1 A. We -- the next company we approached was a
 02:47:14 2 company called Animal 57. And that didn't
 02:47:17 3 work out so well, because they were not
 02:47:19 4 qualified for the job.
 02:47:21 5 Q. Did you ever sign a nondisclosure agreement
 02:47:23 6 with them?
 02:47:23 7 A. I believe -- I'm not sure. I don't recall
 02:47:30 8 if we signed -- I don't think we -- we
 02:47:32 9 signed a contract with them, and they
 02:47:34 10 agreed -- and perhaps in the contract there
 02:47:37 11 was confidential -- a confidentiality at
 02:47:41 12 that point. But, again, this is post
 02:47:43 13 February 4th. So the ideas that I, you
 02:47:48 14 know, have stated that were proprietary and
 02:47:51 15 private in terms of knowledge had been made
 02:47:54 16 public at that point.
 02:47:55 17 Q. So is it your testimony, then, that
 02:47:59 18 everything about HarvardConnection was then
 02:48:01 19 out in the public?
 02:48:03 20 A. Post-Facebook launch, yes.
 02:48:07 21 Q. When did Facebook launch?
 02:48:09 22 A. February 4th.
 02:48:09 23 Q. February 4th, okay.
 02:48:12 24 MR. CHATTERJEE: So let me mark
 02:48:13 25 this as Exhibit No. 14.

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02:49:55 1 A. There were some changes to this. I mean,
 02:49:57 2 for example, we had the matchmaker thing
 02:50:00 3 right here. There were certainly -- you
 02:50:06 4 know, we may have updated the site map. You
 02:50:09 5 know, the site when Mark Zuckerberg first
 02:50:12 6 saw was in November 2003, and from the code
 02:50:15 7 that we have currently it stayed at a
 02:50:18 8 standstill whereas the ideas were moving at
 02:50:21 9 a rapid pace. And so this was the first
 02:50:25 10 time, really, since I would say November
 02:50:28 11 2003 that we put them down on paper.
 02:50:29 12 Q. So it wasn't put down on paper before --
 02:50:32 13 A. In -- with respect to a site map, I don't
 02:50:36 14 believe -- no, I don't believe so.
 02:50:42 15 Q. And now, you've said that the Animal 57
 02:50:45 16 didn't work out too well. Could you
 02:50:46 17 describe what you mean by that?
 02:50:47 18 A. They took on the project. They basically
 02:50:50 19 bit off more than they could chew. They
 02:50:52 20 didn't have the expertise. They said that
 02:50:55 21 they did. They didn't. And they were
 02:50:56 22 really unable to do it, and so we terminated
 02:50:59 23 the relationship.
 02:51:00 24 Q. How did you decide that Animal 57 would be a
 02:51:05 25 candidate to program this website?

02:51:07 1 A. I did some searching for Internet build
 02:51:10 2 developers on the website. I talked to a
 02:51:14 3 couple people, you know, asked them -- I
 02:51:17 4 asked Randy Barth if they could do a site,
 02:51:20 5 what the time frame is, what the cost would
 02:51:22 6 be. It sounded reasonable, and we went --
 02:51:24 7 we met with them and then went with them.
 02:51:27 8 Q. And how long were they doing software
 02:51:29 9 development for ConnectU?
 02:51:30 10 A. I think the -- I think it was a three-week,
 02:51:33 11 three or four-week window when we met with
 02:51:36 12 them, and then when they -- from that point
 02:51:39 13 they said they could deliver the website.
 02:51:40 14 Q. So they gave roughly a month before they
 02:51:43 15 could deliver the website?
 02:51:44 16 A. Yeah, they -- would say they gave us a
 02:51:47 17 month, but after a month's time period,
 02:51:50 18 nothing had been done. You know, very
 02:51:52 19 little had been done, and so their time
 02:51:56 20 estimate was substantially smaller than what
 02:51:59 21 it should have been.
 02:52:00 22 Q. And after -- so what happened with Animal
 02:52:04 23 57?
 02:52:04 24 A. Well, I think we gave them extension maybe
 02:52:07 25 of a couple weeks. But it didn't look like,

02:53:30 1 A. Oh, well, you know, there were -- sure,
 02:53:40 2 sure, we would have developed ideas and
 02:53:41 3 stuff that would have been confidential,
 02:53:44 4 sure.
 02:53:45 5 Q. And how long did it take for iMarc to
 02:53:48 6 complete the website?
 02:53:49 7 A. I believe they did it in two months, working
 02:53:51 8 very, very hard and very fast.
 02:53:55 9 Q. And how many people were staffed on the
 02:53:58 10 ConnectU project?
 02:53:58 11 A. I think there was one lead project manager,
 02:54:00 12 one lead programmer and there may have
 02:54:05 13 been -- there might have been -- there was a
 02:54:07 14 graphics person who did graphics. So there
 02:54:10 15 was two, three people, one person sort of
 02:54:12 16 making sure all the ducks were in a row, one
 02:54:15 17 person programming, lead programmer, one
 02:54:18 18 graphics individual, and there may have been
 02:54:19 19 another programmer time to time.
 02:54:24 20 Q. And when did ConnectU launch?
 02:54:28 21 A. I believe -- I'm going to say May 25th,
 02:54:32 22 2004, but I don't know that date for sure.
 02:54:34 23 I know it was at the end of May.
 02:54:36 24 Q. Since the nondisclosure agreement with iMarc
 02:54:41 25 what is the confidential information that

02:52:10 1 you know, -- it didn't look like they were
 02:52:13 2 going to be able to finish it. And they
 02:52:17 3 were underqualified. So after that we
 02:52:19 4 approached iMarc and had them develop the
 02:52:22 5 site.
 02:52:23 6 Q. And when did you bring iMarc on board?
 02:52:26 7 A. I believe it was like in March, maybe
 02:52:33 8 March -- middle of March, something like
 02:52:39 9 that, I think.
 02:52:40 10 Q. And what did iMarc do?
 02:52:42 11 A. iMarc started -- they basically programmed
 02:52:46 12 the site from scratch over, because the php
 02:52:49 13 at that point, the work from
 02:52:52 14 HarvardConnection was -- many people had
 02:52:54 15 worked with it. And it was easier to
 02:52:56 16 basically start again, clean slate.
 02:52:59 17 Q. Now, did you enter into any kind of
 02:53:02 18 nondisclosure agreement with iMarc?
 02:53:04 19 A. Yeah, we had an NDA with them, yeah.
 02:53:08 20 Q. And was there any new confidential
 02:53:11 21 information developed?
 02:53:11 22 A. Any confidential information developed. I
 02:53:19 23 can't recall right now. I don't believe so.
 02:53:24 24 Between Animal 57 and iMarc or --
 02:53:28 25 Q. No, after signing the agreement with iMarc.

02:54:43 1 was created?
 02:54:43 2 MR. HORNICK: Objection. And this
 02:54:44 3 is outside the scope. And I'm going to ask
 02:54:47 4 you, this is really not relevant to the
 02:54:52 5 case. And what I -- rather than getting
 02:54:54 6 into a fight over it, what I would suggest
 02:54:55 7 that you do is you put that into a separate
 02:54:58 8 30(b)(6) notice and let's fight over it
 02:55:00 9 before you have a witness on it, because I
 02:55:02 10 don't really think you're entitled to our
 02:55:05 11 current confidential information.
 02:55:06 12 MR. CHATTERJEE: The notice says
 02:55:08 13 the concept, design and development of the
 02:55:10 14 ConnectU website.
 02:55:10 15 MR. HORNICK: Yeah, it doesn't say
 02:55:11 16 what the trade secrets are. You've got a
 02:55:13 17 separate one up there for the confidential
 02:55:15 18 information that was shared with Zuckerberg.
 02:55:18 19 That's No. 2. Why are you entitled to our
 02:55:21 20 current confidential information? What does
 02:55:23 21 that have to do with any of the claims or
 02:55:25 22 defenses or counterclaims?
 02:55:26 23 MR. CHATTERJEE: It has to go with
 02:55:28 24 the efforts to mitigate any damages. It is
 02:55:31 25 directly relevant if you create any new

02:55:32 1 intellectual property, so --
 02:55:32 2 MR. HORNICK: I'm sorry, you can't
 02:55:33 3 have it today.
 02:55:33 4 MR. CHATTERJEE: -- what he
 02:55:33 5 considered is confidential.
 02:55:34 6 MR. HORNICK: It's outside the
 02:55:34 7 scope.
 02:55:35 8 MR. CHATTERJEE: Mr. Hornick --
 02:55:37 9 MR. HORNICK: You listen to me.
 02:55:38 10 MR. CHATTERJEE: No, you listen to
 02:55:39 11 me.
 02:55:39 12 MR. HORNICK: You assert --
 02:55:40 13 MR. CHATTERJEE: You're instructing
 02:55:41 14 him not to answer; is that correct?
 02:55:42 15 MR. HORNICK: Yes, I am.
 02:55:43 16 MR. CHATTERJEE: Okay. Thank you.
 02:55:43 17 There's no need to get involved in a debate
 02:55:46 18 if you're instructing him not to answer.
 02:55:48 19 MR. HORNICK: But I tried to do it
 02:55:48 20 with you in a reasonable way. I suggested
 02:55:50 21 to you that you do a separate 30(b)(6), and
 02:55:52 22 let's fight over it properly. Let's take it
 02:55:53 23 before the Judge if we have to, let you take
 02:55:53 24 a little time and think about whether you
 02:55:53 25 think you really need that and whether

02:56:22 1 BY MR. CHATTERJEE:
 02:56:22 2 Q. What development work was done on the
 02:56:26 3 ConnectU website after signing up with
 02:56:29 4 iMarc?
 02:56:30 5 A. Development?
 02:56:31 6 Q. Yes.
 02:56:31 7 A. Well, we -- they basically started from a
 02:56:36 8 clean slate and coded the site from ground
 02:56:40 9 up. And I think you probably have the site
 02:56:44 10 map that we gave them. And that would
 02:56:47 11 pretty much outline the initial phase of
 02:56:49 12 development.
 02:56:49 13 Q. And was it changed in any way?
 02:56:50 14 A. You know, it might have -- sure, it might
 02:56:58 15 have been changed to some extent. As I
 02:57:01 16 said, the HarvardConnection development was
 02:57:03 17 in arrested development from November 2003.
 02:57:05 18 Nothing was implemented in that site or at
 02:57:07 19 least implemented and given to us. So
 02:57:09 20 certainly there is changes in the website.
 02:57:12 21 Q. Okay. Have all the rights associated with
 02:57:23 22 the HarvardConnection partnership been
 02:57:26 23 transferred to ConnectU LLC?
 02:57:29 24 MR. HORNICK: Objection, calls for
 02:57:31 25 a legal conclusion but you can testify to

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02:55:59 1 you're really entitled to it before we waste
 02:55:59 2 time during this deposition. I --
 02:56:01 3 MR. CHATTERJEE: Mr. Hornick --
 02:56:01 4 MR. HORNICK: If you want to work
 02:56:01 5 this out --
 02:56:01 6 MR. CHATTERJEE: -- if you want to
 02:56:02 7 meet and confer, we can do that outside of
 02:56:03 8 the deposition. I do not --
 02:56:03 9 MR. HORNICK: -- when you're trying
 02:56:06 10 to ask the witness questions about it. This
 02:56:09 11 is a very, very sensitive area.
 02:56:11 12 MR. CHATTERJEE: Mr. Hornick, all
 02:56:12 13 you need --
 02:56:12 14 MR. HORNICK: I don't think the
 02:56:13 15 Judge is going to tell you that you can have
 02:56:14 16 this information.
 02:56:15 17 MR. CHATTERJEE: All you need to do
 02:56:15 18 is instruct the witness not to answer.
 02:56:15 19 MR. HORNICK: I'm trying to work it
 02:56:15 20 out --
 02:56:15 21 MR. CHATTERJEE: Your objections
 02:56:16 22 have been coaching the witness. This is not
 02:56:18 23 a time to resolve that. We'll meet and
 02:56:20 24 confer later.
 02:56:20 25 MR. HORNICK: Okay.

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02:57:32 1 the extent that you know facts relating to
 02:57:35 2 that question.
 02:57:35 3 A. I know that Victor and Joseph, they
 02:57:38 4 transferred their rights, and I believe we
 02:57:40 5 have a dual ownership of -- or dual license
 02:57:44 6 with Sanjay.
 02:57:45 7 Q. And that's for the copyrights or for all
 02:57:49 8 rights?
 02:57:50 9 MR. HORNICK: Objection. It calls
 02:57:51 10 for a legal conclusion --
 02:57:53 11 A. I believe --
 02:57:52 12 MR. HORNICK: -- and legal
 02:57:53 13 testimony.
 02:57:54 14 THE WITNESS: Sorry. Sorry.
 02:57:56 15 A. I believe that entails the copyrights, and I
 02:58:00 16 would assume also all the all rights. I
 02:58:02 17 don't know the answer to the other portion
 02:58:04 18 of that question.
 02:58:07 19 Q. And how is it that ConnectU LLC owns the
 02:58:13 20 trade secrets of the HarvardConnection
 02:58:15 21 partnership?
 02:58:16 22 A. We transferred like myself, Tyler and Divya
 02:58:20 23 transferred the rights of our trade secrets
 02:58:24 24 to ConnectU.
 02:58:25 25 Q. And how did you do that?

02:58:27 1 A. Interoperating LLC agreement.
 02:58:29 2 Q. And when did you do that?
 02:58:30 3 A. Well, when -- I mean, could you be a little
 02:58:37 4 more specific with the question?
 02:58:39 5 Q. Sure. When -- when were the rights
 02:58:41 6 transferred to the LLC?
 02:58:43 7 MR. HORNICK: Objection, it calls
 02:58:44 8 for a legal conclusion and legal testimony,
 02:58:48 9 but you can answer it if you know.
 02:58:49 10 A. The LLC was drafted fairly recently in the
 02:58:55 11 last month or so. And the LLC was signed on
 02:59:00 12 the 5th. So that would be the -- when the
 02:59:05 13 official transfer of the IP would have been.
 02:59:10 14 Q. Were there any discussions prior to, let's
 02:59:14 15 say, July 2005 between you, Tyler Winklevoss
 02:59:20 16 and Divya Narendra about transferring the
 02:59:24 17 rights associated with trade secrets or any
 02:59:28 18 of your claims in the complaint to ConnectU
 02:59:31 19 LLC?
 02:59:32 20 MR. HORNICK: I have to object and
 02:59:33 21 instruct you not to reveal any discussions
 02:59:35 22 you may have had with counsel about that
 02:59:36 23 topic.
 02:59:38 24 THE WITNESS: Okay.
 02:59:39 25 A. Well, the corporate entity, as I mentioned

03:00:49 1 talked about, was there -- the one about the
 03:00:52 2 LLC agreement, were there any negotiations
 03:00:54 3 about that agreement between the various
 03:00:56 4 principals?
 03:00:56 5 A. No, there really wasn't. We basically
 03:01:03 6 drafted it, and that was -- there was no
 03:01:06 7 real negotiation there.
 03:01:07 8 Q. Was there an early draft of the agreement
 03:01:09 9 where the transfer of rights was not
 03:01:12 10 included?
 03:01:12 11 A. I think the first draft of the agreement did
 03:01:16 12 not have the transfer of rights. That was
 03:01:19 13 written up by a non-IP lawyer. And he
 03:01:23 14 basically produced I guess you would say a
 03:01:26 15 boilerplate LLC.
 03:01:28 16 Q. And who was that lawyer?
 03:01:30 17 A. Stuart Ratner.
 03:01:32 18 Q. And where is Mr. Ratner located?
 03:01:34 19 A. He's in Stamford, Connecticut.
 03:01:37 20 Q. Stamford?
 03:01:38 21 A. S-T-A-M-F-O-R-D.
 03:01:41 22 Q. Us West Coasters always get that mixed up
 03:01:44 23 with another name.
 03:01:46 24 And later on there was another
 03:01:50 25 amendment that added --

02:59:42 1 earlier, was formed about a year prior in
 02:59:46 2 July -- excuse me, sorry. It was I think on
 02:59:50 3 May 26th. So when that corporate entity
 02:59:52 4 formed, I'm under the impression that all
 02:59:56 5 sort of right IP and whatnot was owned by
 03:00:02 6 ConnectU at that point.
 03:00:03 7 Q. Okay. So my question is much more focused
 03:00:05 8 than that again. Were there any discussions
 03:00:08 9 between you, Tyler Winklevoss and Divya
 03:00:11 10 Narendra reflecting what your impression
 03:00:15 11 was? And let's not talk about privileged
 03:00:18 12 conversations, but just between the three of
 03:00:20 13 you.
 03:00:20 14 A. In terms of transfer of the company?
 03:00:23 15 Q. Yes.
 03:00:24 16 A. No. Other than the fact that we all, you
 03:00:27 17 know, felt and believed that that was owned
 03:00:35 18 by the company, that the IP and trademarks
 03:00:38 19 and protectable stuff was owned by the
 03:00:39 20 company.
 03:00:39 21 Q. But there was no discussion about the
 03:00:41 22 transfer of rights?
 03:00:42 23 A. Not at that -- I don't believe so in that
 03:00:45 24 period of time.
 03:00:46 25 Q. Was there any -- in this document that you

03:01:51 1 A. Yes. He's not an IP lawyer, so it really
 03:01:56 2 wouldn't be his forte or -- I'm not sure he
 03:01:59 3 would feel comfortable putting that into the
 03:02:01 4 document, so he was sort of in charge of the
 03:02:03 5 first draft, and then it was later added.
 03:02:04 6 Q. Now, was the goal of that provision to
 03:02:19 7 transfer all rights or just the intellectual
 03:02:21 8 property rights?
 03:02:22 9 MR. HORNICK: Well, I'll object to
 03:02:23 10 the extent that calls for legal expertise,
 03:02:25 11 but you can answer if you know.
 03:02:26 12 MR. CHATTERJEE: I'm asking for
 03:02:27 13 what his intention was.
 03:02:28 14 A. I believe all rights to ownership of the
 03:02:30 15 code and IP stuff as well.
 03:02:34 16 Q. What about the fraud claim?
 03:02:35 17 A. What do you mean by that?
 03:02:37 18 Q. Well, in your complaint you've asserted a
 03:02:40 19 complaint for fraud.
 03:02:41 20 A. Uh-huh.
 03:02:41 21 Q. Would that be the type of thing that was
 03:02:46 22 covered by the transfer, or was it your
 03:02:47 23 intention for that to be transferred?
 03:02:49 24 A. What do you mean by transferring fraud? I'm
 03:02:51 25 not sure I understand. I'm sorry, but...

03:02:54 1 Q. So you understand that ConnectU LLC has
 03:02:58 2 accused Mr. Zuckerberg --
 03:02:59 3 A. Uh-huh.
 03:02:59 4 Q. -- of fraud?
 03:03:00 5 A. Uh-huh.
 03:03:01 6 Q. Yes?
 03:03:02 7 A. Yes. Yes.
 03:03:03 8 Q. Okay. So in this transfer of rights in the
 03:03:11 9 LLC agreement, was it your intention to
 03:03:13 10 transfer the claim for fraud from yourself
 03:03:16 11 personally to the ConnectU LLC?
 03:03:18 12 A. The claim that we made towards him or that
 03:03:21 13 we made towards him --
 03:03:23 14 Q. Yes.
 03:03:26 15 A. Okay. Well, I believe we sued him under
 03:03:29 16 ConnectU, the corporate entity ConnectU, so
 03:03:31 17 I'm not sure if we would individually
 03:03:32 18 have -- my understanding would be that the
 03:03:37 19 company had that claim against Mr.
 03:03:38 20 Zuckerberg and Thefacebook.
 03:03:40 21 Q. Would you agree with me that ConnectU as a
 03:03:43 22 business entity didn't exist when Mr.
 03:03:45 23 Zuckerberg was in a partnership with you?
 03:03:46 24 A. At that time it did not as a business
 03:03:53 25 entity. However, when he was sued, it was a

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03:03:56 1 business entity.
 03:03:56 2 Q. All right. So it didn't exist at the time
 03:03:58 3 Mr. Zuckerberg was working with you?
 03:03:59 4 A. With that claim that you specifically refer
 03:04:01 5 to was levied by the corporate --
 03:04:04 6 corporation in ConnectU against Mr.
 03:04:06 7 Zuckerberg, so I guess my question is, why
 03:04:09 8 are you asking if individually I would want
 03:04:12 9 to transfer such a claim if that claim was
 03:04:14 10 made on behalf of a corporation that was a
 03:04:15 11 corporation at the time of the file of the
 03:04:17 12 lawsuit.
 03:04:18 13 Q. Okay. Thank you for your answer.
 03:04:20 14 A. Okay.
 03:04:20 15 Q. Could you describe for me what you
 03:04:27 16 understand the role of Dustin Moskovitz to
 03:04:32 17 be with respect to this lawsuit?
 03:04:35 18 MR. HORNICK: I'll just object to
 03:04:36 19 the witness can answer this question to the
 03:04:38 20 extent that it wouldn't require him to see
 03:04:40 21 any of the defendants' confidential
 03:04:41 22 information, which he hasn't seen.
 03:04:47 23 A. With respect to his involvement with the
 03:04:49 24 lawsuit, it's our assumption and belief that
 3:04:51 25 Mr. Moskovitz and all parties, for that

03:04:54 1 matter, are involved to the extent that they
 03:04:58 2 were not in -- they were not a corporate
 03:05:01 3 entity at this time we alleged the abuses
 03:05:03 4 and that they took part in the development
 03:05:07 5 and/or promulgation of the website
 03:05:11 6 post-launch knowing full well our issues
 03:05:15 7 with the website.
 03:05:17 8 Q. Okay. Why don't you pull out the complaint.
 03:05:22 9 I think it's marked as Exhibit No. 2. And
 03:05:39 10 go to Paragraph 21.
 03:06:02 11 (Witness reviews document.)
 03:06:03 12 A. Uh-huh.
 03:06:03 13 Q. So in this paragraph it states, "Defendant
 03:06:08 14 Zuckerberg shared Plaintiff's confidential
 03:06:11 15 business information and the
 03:06:13 16 HarvardConnection Code with Defendants
 03:06:14 17 Saverin, Moskovitz, McCollum, and Hughes,
 03:06:18 18 who knowingly used, and continue to use,
 03:06:20 19 Plaintiff's confidential business plans and
 03:06:22 20 the HarvardConnection Code to develop,
 03:06:24 21 launch, and/or maintain TheFaceBook.com
 03:06:26 22 website."
 03:06:27 23 Do you see that?
 03:06:29 24 A. Uh-huh.
 03:06:29 25 Q. Now, do you have any knowledge of Mr.

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03:06:36 1 Moskovitz getting your confidential business
 03:06:39 2 information or the HarvardConnection code?
 03:06:42 3 MR. HORNICK: I'll object to that
 03:06:44 4 question to the extent that it implies that
 03:06:46 5 the witness should have access to any of
 03:06:47 6 your confidential information, so I'm not
 03:06:49 7 sure he's capable of answering that
 03:06:51 8 question. You can try.
 03:06:53 9 A. Well, we know from various articles that Mr.
 03:07:00 10 Moskovitz was involved in the -- you know,
 03:07:03 11 in helping Thefacebook post-launch and to
 03:07:08 12 that -- with that respect that we know -- we
 03:07:11 13 believe that Mr. Zuckerberg used our
 03:07:12 14 business information and confidential
 03:07:17 15 practices to aid his website. So that's --
 03:07:20 16 Q. Okay. So other than working with
 03:07:21 17 Thefacebook website, you don't have any
 03:07:23 18 other facts that you know of?
 03:07:25 19 A. His association with the company and working
 03:07:30 20 with it in the group, that is our fact --
 03:07:32 21 that's our belief.
 03:07:37 22 Q. And I'll ask you the same question as to Mr.
 03:07:40 23 McCollum.
 03:07:46 24 MR. HORNICK: Is there a question
 03:07:46 25 pending?

03:07:48 1 MR. CHATTERJEE: I was asking the
 03:07:48 2 same question as to Mr. McCollum, what
 03:07:48 3 facts --
 03:07:48 4 MR. HORNICK: Well, I think the
 03:07:52 5 witness -- all right.
 03:07:52 6 MR. CHATTERJEE: And, Mr. Hornick,
 03:07:54 7 please stop coaching the witness.
 03:07:56 8 MR. HORNICK: I haven't coached the
 03:07:58 9 witness all day.
 03:08:00 10 BY MR. CHATTERJEE:
 03:08:00 11 Q. What confidential business information for
 03:08:03 12 HarvardConnection code was shared with Mr.
 03:08:06 13 McCollum by Mr. Zuckerberg?
 03:08:10 14 A. Again, I believe that his involvement with
 03:08:11 15 the company and there's various articles
 03:08:13 16 that describe a situation in which these
 03:08:15 17 individuals developed the website and
 03:08:19 18 continued to work on it in their dorm room
 03:08:21 19 environment indicating, you know, that he
 03:08:26 20 was aware and had access to and made use of
 03:08:30 21 our proprietary information.
 03:08:31 22 Q. Okay. What evidence did you have that Mr.
 03:08:37 23 Hughes was shared -- or had confidential
 03:08:42 24 business information of ConnectU and the
 03:08:43 25 HarvardConnection code shared with him by

03:10:20 1 the ConnectU partnership or
 03:10:22 2 HarvardConnection partnership is not listed
 03:10:25 3 as a signatory to the LLC agreement?
 03:10:31 4 A. I'm sorry, can you say that --
 03:10:32 5 Q. Well, do you know why there's no
 03:10:34 6 representative of the HarvardConnection
 03:10:35 7 partnership or the ConnectU partnership?
 03:10:37 8 Why aren't either of them signed on?
 03:10:39 9 MR. HORNICK: Objection,
 03:10:40 10 mischaracterizes the document which you
 03:10:41 11 haven't even shown to the witness.
 03:10:43 12 Q. Do you know if they signed it, if there's a
 03:10:46 13 representative --
 03:10:47 14 A. HarvardConnection?
 03:10:50 15 Q. Yes.
 03:10:50 16 A. I know that I'm a member of
 03:10:51 17 HarvardConnection and that I signed the
 03:10:53 18 document.
 03:10:53 19 Q. And is there a separate signature line for
 03:10:56 20 HarvardConnection or for ConnectU, the
 03:11:01 21 unincorporated proprietorship?
 03:11:05 22 A. Well, I mean, as I said before --
 03:11:12 23 MR. HORNICK: Objection, this
 03:11:13 24 question calls for legal expertise, which
 03:11:17 25 the witness doesn't have. You can try to

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03:08:45 1 Mr. Zuckerberg?
 03:08:46 2 A. I would say the same answer, same beliefs
 03:08:51 3 that I did for the -- said for the other
 03:08:52 4 two.
 03:08:53 5 Q. And other than what you have said, you have
 03:08:55 6 nothing else to base it on?
 03:08:56 7 A. I think it's -- I think what I said is what
 03:09:00 8 we -- primarily what we base it on.
 03:09:03 9 Q. Okay. Are there any other actions that you
 03:09:21 10 know of taken by Mr. Moskovitz, Mr. McCollum
 03:09:25 11 and Mr. Hughes that you believe support your
 03:09:29 12 claims against Mr. Zuckerberg and the other
 03:09:34 13 defendants?
 03:09:34 14 A. I would be unaware of them at this time,
 03:09:40 15 because I -- again, I can't say sort of a
 03:09:43 16 lot of the protected documents, so what I
 03:09:46 17 can infer and what I know from just sort of
 03:09:49 18 logic, reasoning is that these are all close
 03:09:53 19 acquaintances, they claim to have created
 03:09:55 20 the website and the idea in their dorm room
 03:09:59 21 environment. They all claim to be
 03:10:02 22 instrumental in the development of it. And
 03:10:04 23 that leads me to believe that they made use
 03:10:07 24 of our information.
 03:10:08 25 Q. Is there -- do you know of any reason why

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03:11:20 1 answer it.
 03:11:27 2 A. Well, it would be my understanding that we
 03:11:30 3 basically transferred our ownership to the
 03:11:33 4 LLC, and that document effectively -- I
 03:11:45 5 think the transfership would cover any type
 03:11:48 6 of situation that you're probably describing
 03:11:51 7 whereby ConnectU -- whatever entity you're
 03:11:55 8 referring to under ConnectU would sign that.
 03:11:57 9 Q. What was the amount of money that was
 03:12:01 10 expended on the HarvardConnection website
 03:12:04 11 before March -- well, I guess before
 03:12:10 12 February 4th, 2004?
 03:12:13 13 A. I would say that we spent probably no more
 03:12:18 14 than \$1,000 because most of the work was not
 03:12:24 15 done sort of an hourly per basis (sic).
 03:12:29 16 Q. And how many hours of people time was spent
 03:12:31 17 in creating the HarvardConnection website
 03:12:33 18 prior to approximately, let's say, February
 03:12:37 19 4th, 2004?
 03:12:39 20 A. I would say --
 03:12:40 21 MR. HORNICK: Don't speculate.
 03:12:43 22 A. Prior to February 2004. It would be my
 03:12:46 23 assumption that there would be hundreds of
 03:12:48 24 hours of coding there. It spanned over a
 03:12:51 25 significant portion of time, and there's a

03:12:53 1 lot of work that went into that site.

03:12:55 2 Q. 500 hours?

03:12:57 3 MR. HORNICK: Objection.

03:12:58 4 A. I can't -- I would be in the hundreds of
03:13:01 5 hours, but I can't really pinpoint it down
03:13:04 6 more than that. And your client, I don't
03:13:09 7 know how many hours he put in, so...

03:13:39 8 MR. CHATTERJEE: We can go off the
03:13:40 9 record. I think I'm going to pass you, but
03:13:41 10 I want a few minutes, so let's take a break
03:13:43 11 for five, ten minutes.

03:13:46 12 THE VIDEOGRAPHER: The time is
03:13:47 13 3:15 -- correction, the time is 3:13, and we
03:13:52 14 are off the record.

03:13:53 15 (Recess taken.)

03:23:12 16 THE VIDEOGRAPHER: The time is
03:23:17 17 3:23, and we are back on the record.

03:23:19 18 MR. CHATTERJEE: So Mr. Hornick, do
03:23:20 19 you want to --

03:23:21 20 MR. HORNICK: Yeah, before we went
03:23:23 21 back on the record I said that I wanted to
03:23:24 22 withdraw instruction that I gave the witness
03:23:27 23 not to answer a question that you had posed,
03:23:29 24 so I'm withdrawing that objection not to
03:23:31 25 answer the question.

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03:23:35 1 BY MR. CHATTERJEE:

03:23:35 2 Q. So -- I'm going to get to that in a minute.
03:23:40 3 That was on the ConnectU trade secrets. I
03:23:42 4 wanted to ask you a few other questions
03:23:43 5 before I get to there.

03:23:44 6 Other than kind of reading the press
03:23:47 7 about who was involved in Thefacebook and
03:23:48 8 what they stated, did you do any other
03:23:51 9 factual investigation before launching your
03:23:54 10 website about Thefacebook?

03:23:56 11 A. I don't think that there's -- excuse me,
03:24:04 12 other than what's sort of publicly written,
03:24:08 13 I don't think that there's other information
03:24:10 14 that you could access, other than the reason
03:24:12 15 and belief that we find that it's humanly
03:24:14 16 impossible to make that website in one week
03:24:16 17 and that he had our block of code and
03:24:19 18 business information.

03:24:20 19 Q. And so I'm going to try and break it down.
03:24:25 20 If I'm missing something I'm going to ask
03:24:28 21 you -- tell me what other facts I'm missing.
03:24:30 22 So the comments to the press and the quotes,
03:24:33 23 the shortness and time. Other than those
03:24:37 24 two things, is there anything else that you
3:24:40 25 investigated?

03:24:40 1 A. They're roommates. They're both computer
03:24:45 2 programmers, and that -- Mr. Moskowitz and
03:24:47 3 Mr. Zuckerberg. And they all listed
03:24:55 4 themselves on the website as founders, as
03:24:58 5 part of the creation of the website upon
03:25:01 6 launch, and, yeah, I think that that's --
03:25:05 7 those are some of the main points as to why
03:25:09 8 we believe that they're involved.

03:25:10 9 MR. HORNICK: I'll just state for
03:25:11 10 the record that the witness may not be privy
03:25:14 11 to investigations by my counsel.

03:25:16 12 Q. Did you investigate Thefacebook website
03:25:18 13 itself?

03:25:18 14 A. I read the about us page, yes.

03:25:21 15 Q. Anything else?

03:25:22 16 A. In terms of their like involvement, no.

03:25:27 17 Q. No, as far as your belief that Mr.
03:25:30 18 Zuckerberg --

03:25:30 19 A. Oh, oh, oh.

03:25:31 20 Q. -- or anyone else did anything wrong.

03:25:38 21 A. Yeah. I mean, again, I don't -- there's --
03:25:41 22 right now at the sort of the filing of the
03:25:44 23 lawsuit and the belief there, those would be
03:25:47 24 the main reasons why I believe that. And I
03:25:50 25 can't think of any other reasons right now.

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03:25:53 1 Q. So you looked at the about us Web pages.
03:25:55 2 Did you look at any other portions of
03:25:58 3 Thefacebook website?

03:25:59 4 A. I think I looked around. It's -- you know,
03:26:03 5 I looked around and a lot of the conceptual
03:26:06 6 stuff and a lot of the content looked
03:26:08 7 similar.

03:26:09 8 Q. And did you sign up with a membership?

03:26:13 9 A. I didn't sign up, no. I have not signed up.

03:26:15 10 Q. So how did you get access to the site?

03:26:20 11 A. One of my roommates is a member.

03:26:24 12 Q. And who's that?

03:26:24 13 A. Alex Chastain-Chapman is one of my
03:26:27 14 roommates, and Mark Hall is one of my
03:26:29 15 roommates.

03:26:29 16 Q. Current roommates or --

03:26:31 17 A. At the time they were my roommates at senior
03:26:34 18 year, Harvard.

03:26:35 19 Q. And what does Mr., is it Chassis?

03:26:39 20 A. Chastain-Chapman.

03:26:40 21 Q. Oh, Chapman. What is Mr. Chapman doing now?

03:26:44 22 A. He worked in New York City -- or rather, he
03:26:48 23 works in Greenwich, Connecticut but lives in
03:26:51 24 New York City.

03:26:51 25 Q. And where does he work?

03:26:52 1 A. I think the company -- it's a public -- I
 03:26:55 2 don't know the name -- yeah, I don't know
 03:26:56 3 the name off the top of my head.
 03:26:58 4 Q. And what about Mr. Hall?
 03:27:01 5 A. He works at Citigroup, I believe, in New
 03:27:05 6 York City.
 03:27:05 7 Q. When Thefacebook launched, did you have any
 03:27:08 8 discussions with Tyler Winklevoss, Howard
 03:27:12 9 Winklevoss or Divya Narendra about the
 03:27:14 10 website?
 03:27:14 11 A. Sure.
 03:27:16 12 Q. And what were those discussions?
 03:27:17 13 A. The similarities and the fact that he worked
 03:27:21 14 for us for -- or supposedly worked for us
 03:27:24 15 for three or four months.
 03:27:39 16 Q. And Mr. Hall, where is he now?
 03:27:41 17 A. He's in New York City at Citigroup.
 03:27:47 18 Q. After November 2003 when you and Mr.
 03:27:59 19 Zuckerberg had your initial discussions, how
 03:28:02 20 many meetings did you have?
 03:28:03 21 A. We had three meetings.
 03:28:05 22 Q. And how long were those meetings?
 03:28:07 23 A. I would say roughly an hour, each meeting.
 03:28:10 24 Q. And what did you discuss in those meetings?
 03:28:16 25 A. I think we already went over a lot of that.

03:29:41 1 through the process there. It's more of
 03:29:43 2 partly an educational experience, partly
 03:29:46 3 just to show, look, I'm putting in the
 03:29:48 4 effort, too. Even though I can't code, I'll
 03:29:52 5 at least sit with you while you're sitting
 03:29:54 6 here. Victor, again, you know, he moved to
 03:29:57 7 another house. He moved to Mather House,
 03:29:59 8 which is actually even further from
 03:30:01 9 Pforzheimer House.
 03:30:02 10 So it was sort of logistically
 03:30:05 11 speaking, not really feasible to spend a lot
 03:30:07 12 of time next to those guys while they coded.
 03:30:12 13 Q. Other than the in person meetings and the
 03:30:15 14 e-mail correspondence, did you have other
 03:30:18 15 discussions with Mr. Zuckerberg?
 03:30:20 16 A. I don't believe so. I think maybe we talked
 03:30:22 17 on the phone once or twice. But I don't
 03:30:27 18 believe that we had other discussions.
 03:30:29 19 Q. And were those telephone conversations long
 03:30:33 20 calls, short calls?
 03:30:34 21 A. They were pretty brief. I think they were
 03:30:36 22 mostly to set up the meetings.
 03:30:40 23 Q. And going back to the ConnectU confidential
 03:30:45 24 information, after signing the nondisclosure
 03:30:49 25 agreement with iMarc, what trade secrets

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03:28:22 1 The first meeting was more -- was basically
 03:28:24 2 an introduction. Victor had already
 03:28:26 3 prompted him with a lot of the information.
 03:28:29 4 The second meeting was more defining of the
 03:28:34 5 roles. And the third meeting was basically
 03:28:37 6 a status project report on where things
 03:28:41 7 stood.
 03:28:41 8 Q. And so you didn't baby-sit him in the same
 03:28:43 9 way you baby-sat Sanjay Mavinkurve?
 03:28:50 10 A. Well, Mark was -- he didn't live in my house
 03:28:53 11 so it was much harder to get down. The way
 03:28:55 12 the house system is set up, you -- to go
 03:29:02 13 from my quad to where he lived was quite a
 03:29:06 14 long journey, it was about a 20-minute walk,
 03:29:09 15 whereas when Sanjay was working with us, we
 03:29:12 16 were in the same house. So it was very easy
 03:29:14 17 for me to go over to his room and check up.
 03:29:16 18 And also, Mark was apparently a little more
 03:29:19 19 elusive, harder to get a hold of.
 03:29:26 20 Q. I'll use the term "baby-sit" the way you
 03:29:28 21 used that word. Did you baby-sit Victor
 03:29:31 22 Gao?
 03:29:31 23 A. No, again, baby-sit, what I meant to say
 03:29:34 24 there was simply basically sitting with the
 03:29:39 25 coder with his code and kind of going

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03:30:53 1 were developed by ConnectU?
 03:30:54 2 A. Well, I know that our code and all code sort
 03:30:57 3 of written from that point forward is
 03:30:59 4 confidential, and trade and proprietary, but
 03:31:02 5 other than that, I'm actually not prepared
 03:31:05 6 today really to answer that question.
 03:31:06 7 Q. Okay. Do you believe that Mark Zuckerberg
 03:31:20 8 intentionally stalled you from developing
 03:31:22 9 the website?
 03:31:25 10 MR. HORNICK: Object to the form of
 03:31:26 11 the question. You can answer.
 03:31:26 12 A. Yes, I do.
 03:31:29 13 Q. And why do you believe that?
 03:31:30 14 A. Well, let's -- I believe that based on the
 03:31:36 15 assumption that for three months we didn't
 03:31:40 16 have any work, and he was able to do
 03:31:45 17 Thefacebook in a week.
 03:31:46 18 Q. And did you go -- during the time period
 03:31:49 19 that you had Mark Zuckerberg involved, who
 03:31:53 20 else did you talk to to do this work?
 03:31:55 21 MR. HORNICK: Objection to --
 03:31:57 22 assumes facts not in evidence, but you can
 03:31:59 23 answer.
 03:31:59 24 A. You mean what other programmers did we talk
 03:32:03 25 to or --

03:32:03 1 Q. Well, did you have any concerns that maybe
 03:32:06 2 you should get someone else that can do it
 03:32:08 3 faster?
 03:32:08 4 A. Well, you know, most -- if you look through
 03:32:10 5 the e-mails, I mean, most of the time Mark
 03:32:13 6 said that he was wrapping things up or tying
 03:32:15 7 it up, and we were led to believe that
 03:32:19 8 things were going along as planned, and
 03:32:23 9 there's also breaks involved. So that sort
 03:32:26 10 of chopped up some time.
 03:32:27 11 Q. And but you approached Rob Scott after
 03:32:32 12 getting Mark Zuckerberg involved, right?
 03:32:34 13 A. Divya sent out that e-mail. I was --
 03:32:37 14 actually sent that e-mail out. I think
 03:32:40 15 maybe Mark was citing a problem set or two
 03:32:43 16 during that sort of pre-break situation and
 03:32:46 17 maybe thought that a little extra manpower
 03:32:48 18 might help at that time.
 03:32:49 19 Q. And didn't she send an e-mail to Victor Gao
 03:32:52 20 in January reflecting the fact that Mark's
 03:32:56 21 interest had waned quite a bit in the
 03:32:58 22 project?
 03:32:58 23 A. Well, what date is that e-mail? Can you
 03:33:01 24 tell me?
 03:33:01 25 Q. I can hand it to you.

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03:33:03 1 A. Sure.
 03:33:03 2 MR. CHATTERJEE: Exhibit 13 -- what
 03:33:04 3 are we on, Exhibit 15?
 03:33:06 4 MR. HORNICK: 14. 15.
 03:33:31 5 (Exhibit No. 15, E-mail, Bates Nos.
 03:33:54 6 C003850 -3851, marked for identification.)
 03:33:54 7 (Witness reviews document.)
 03:33:54 8 A. Yeah, I mean, this is a January 25th e-mail.
 03:33:57 9 This is Mr. Zuckerberg, we met with him on
 03:34:00 10 the 14th, and he mentioned that he was still
 03:34:03 11 going to work on HarvardConnection, although
 03:34:07 12 it may not have been as high of a priority
 03:34:10 13 at that point. But that's January 14th.
 03:34:17 14 And he also said that he would follow up
 03:34:18 15 with e-mail correspondence and we hadn't
 03:34:20 16 heard back from him at that point. So
 03:34:22 17 clearly my interpretation at that point was
 03:34:25 18 that his interest may have been waning quite
 03:34:28 19 a bit. What I now interpret it as is an
 03:34:31 20 intentional stall.
 03:34:33 21 Q. Okay. And you state in this e-mail, the
 03:34:35 22 second line, that you want -- "We want you
 03:34:38 23 to be an active part of the team as we move
 03:34:40 24 towards launch."
 03:34:42 25 Now, in stating that to Victor Gao,

03:34:44 1 were you trying to express to him that you
 03:34:46 2 wanted him to be a partner?
 03:34:52 3 A. Well, this is actually more an e-mail to get
 03:34:55 4 Victor revved up to help us out, finish off
 03:34:58 5 the last -- what we thought was some last
 03:35:04 6 elements involved in the site, "active"
 03:35:07 7 meaning just sort of being a coder. But
 03:35:09 8 Victor had already expressed to us multiple
 03:35:11 9 times before all he was looking for was
 03:35:15 10 monetary compensation. So we were basically
 03:35:17 11 just trying to revive him from the dead.
 03:35:19 12 Q. So when you were saying being an active part
 03:35:22 13 of the team, it had a different meaning here
 03:35:25 14 than it did in conversations you had with
 03:35:26 15 other people?
 03:35:27 16 A. What I'm saying is that Victor's active part
 03:35:30 17 in the team would have been a monetary
 03:35:34 18 active part and that Mark Zuckerberg's and
 03:35:34 19 other people's may have been an equity stake
 03:35:36 20 such as Mark Zuckerberg's active part of the
 03:35:39 21 team. Whenever Victor was active, he was a
 03:35:42 22 monetary active part of the team.
 03:35:44 23 Q. You mean he was paid money?
 03:35:45 24 A. He was a contracted active part.
 03:35:51 25 MR. CHATTERJEE: Okay. I'm going

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03:35:53 1 to pass the witness to Mr. Hawk.
 03:36:05 2 (Pause.)
 03:36:05 3 THE VIDEOGRAPHER: Should I go off
 03:36:07 4 the record real quick?
 03:36:08 5 MR. HAWK: Sure, if you want to.
 03:36:10 6 THE VIDEOGRAPHER: I can change the
 03:36:13 7 tape, too. The time is 3:36. This is the
 03:36:18 8 end of Tape No. 4, and we are off the
 03:36:23 9 record.
 03:36:27 10 (Discussion off the record.)
 03:37:02 11 THE VIDEOGRAPHER: The time is
 03:37:05 12 3:37. This is the beginning of Tape 5, and
 03:37:07 13 we are back on the record.
 03:37:08 14 CROSS EXAMINATION
 03:37:08 15 BY MR. HAWK:
 03:37:09 16 Q. Good afternoon, Mr. Winklevoss. My name is
 03:37:10 17 Robert Hawk, and I represent Mr. Eduardo
 03:37:13 18 Saverin in your company ConnectU's lawsuit
 03:37:16 19 against Mr. Saverin. Before we -- before I
 03:37:18 20 start asking questions I did want to
 03:37:21 21 emphasize one ground rule for the
 03:37:23 22 deposition. And it is that until I specify
 03:37:27 23 otherwise, I'm going to be asking you

03:37:32 1 questions about facts. Now, there may be
 03:37:35 2 some exceptions to that, but I'll tell you
 03:37:38 3 if I want your belief or something other
 03:37:40 4 than facts I'll tell you that in the
 03:37:41 5 question, okay?
 03:37:42 6 So I want you to understand that I
 03:37:45 7 will be asking you about facts, and I don't
 03:37:47 8 want you to speculate. I don't want you to
 03:37:50 9 guess. I don't want you to give me your
 03:37:53 10 belief unless I ask for it. I want to --
 03:38:00 11 I'm going to ask you about facts, and if you
 03:38:02 12 don't know the answer to my question, I want
 03:38:04 13 you to tell me that you don't know the
 03:38:06 14 answer to my question. Is that an agreeable
 03:38:07 15 way to proceed?
 03:38:09 16 A. Uh-huh. Yes.
 03:38:09 17 Q. Yes, okay.
 03:38:10 18 All right. If you would take a look,
 03:38:12 19 please, sir, at Exhibit 1 that's already
 03:38:14 20 been marked as the amended notice of
 03:38:16 21 deposition. And would you look in there at
 03:38:25 22 Topic No. 3 in the amended notice of
 03:38:29 23 deposition, do you have the topics before
 03:38:39 24 you and you see --
 03:38:42 25 A. Yeah, No. 3.

03:39:47 1 please, at deposition Topic No. 4, and
 03:39:50 2 that's where we have asked that ConnectU
 03:39:51 3 produce someone to testify about the
 03:39:53 4 "Alleged use by Mark Zuckerberg or any other
 03:39:56 5 Defendant of Plaintiff's alleged
 03:39:59 6 confidential business information."
 03:40:01 7 A. Uh-huh.
 03:40:01 8 Q. Do you see that?
 03:40:02 9 A. Yes.
 03:40:02 10 Q. Now, are you the most knowledgeable person
 03:40:04 11 at ConnectU regarding the alleged use by
 03:40:07 12 Mark Zuckerberg or any other defendant of
 03:40:10 13 plaintiff's alleged confidential business
 03:40:11 14 information?
 03:40:12 15 A. With -- yes, with respect to the fact that
 03:40:18 16 I'm the most knowledgeable person with
 03:40:20 17 regards to what is confidential business
 03:40:21 18 information of ConnectU, yes.
 03:40:24 19 Q. Well, that wasn't exactly my question. I'm
 03:40:26 20 asking about this topic right here that's
 03:40:28 21 spelled out in this notice of deposition.
 03:40:30 22 Are you the most knowledgeable person --
 03:40:33 23 A. Yes.
 03:40:33 24 Q. -- at ConnectU -- let me finish the
 03:40:35 25 question.

03:38:43 1 Q. No. 3. And you understand these are the
 03:38:45 2 topics that the defendants have asked that a
 03:38:49 3 ConnectU person be designated to testify
 03:38:52 4 about these topics. Do you understand that?
 03:38:53 5 A. Yes.
 03:38:54 6 Q. Okay. And Topic No. 3 is the "Alleged use
 03:38:59 7 by Mark Zuckerberg or any other Defendant of
 03:39:02 8 the source code for the HarvardConnection
 03:39:04 9 website."
 03:39:05 10 Do you see that?
 03:39:06 11 A. Yes.
 03:39:07 12 Q. Now, are you the most knowledgeable person
 03:39:10 13 that is a part of ConnectU about the alleged
 03:39:13 14 use by Mark Zuckerberg or any other
 03:39:16 15 defendant of the source code for the
 03:39:18 16 HarvardConnection website?
 03:39:19 17 A. Yes, I would be for ConnectU based on, you
 03:39:25 18 know, what evidence is available, yes.
 03:39:27 19 Q. Okay. So there's nobody more knowledgeable
 03:39:30 20 than you, that you're aware of, at ConnectU
 03:39:34 21 about the alleged use by Mark Zuckerberg or
 03:39:36 22 any other defendant of the source code for
 03:39:38 23 the HarvardConnection website, correct?
 03:39:42 24 A. That would be correct, yes.
 03:39:44 25 Q. Okay. Now, fine. Look if you would,

03:40:35 1 Are you the most knowledgeable person
 03:40:37 2 at ConnectU regarding the alleged use by
 03:40:39 3 Mark Zuckerberg or any other defendant of
 03:40:41 4 plaintiff's alleged confidential business
 03:40:44 5 information?
 03:40:44 6 A. Yes.
 03:40:44 7 Q. Thank you.
 03:40:47 8 Now, would you look at Topic No. 6.
 03:40:50 9 Topic No. 6 is "The alleged role of Eduardo
 03:40:56 10 Saverin, Dustin Moskovitz, Andrew McCollum,
 03:40:59 11 and Christopher Hughes in the acts alleged
 03:41:02 12 in the Amended Complaint."
 03:41:05 13 Are you the most knowledgeable person
 03:41:07 14 at ConnectU regarding that topic?
 03:41:08 15 A. Yes.
 03:41:09 16 MR. HORNICK: Just for the record,
 03:41:11 17 this witness isn't capable of testifying on
 03:41:13 18 those topics to the extent it would require
 03:41:17 19 him to have any access to the defendants'
 03:41:19 20 confidential information.
 03:41:21 21 MR. HAWK: You know what? I don't
 03:41:24 22 know why you're saying that. I'm asking
 03:41:25 23 questions to establish what is known by the
 03:41:27 24 plaintiff in this case, who has brought this
 03:41:29 25 lawsuit. And I don't even see what

03:41:32 1 relevance your statement has, but I don't
 03:41:34 2 want to argue with you about it. I don't
 03:41:35 3 know if it's a coaching statement. I don't
 03:41:36 4 know what the point of it is, but I'm going
 03:41:38 5 to go forward.
 03:41:39 6 MR. HORNICK: Okay. Good.
 03:41:41 7 MR. HAWK: All right. Fair enough.
 03:41:42 8 BY MR. HAWK:
 03:41:43 9 Q. What was Eduardo Saverin's role with
 03:41:48 10 Thefacebook in January 2004?
 03:41:56 11 A. Well, to the extent of my knowledge he was
 03:41:58 12 involved with Thefacebook prior to the
 03:42:01 13 coding and was involved in the development.
 03:42:04 14 What specifically, I haven't looked at the
 03:42:07 15 documents, but that's what I know.
 03:42:11 16 Q. You say he was involved in the development
 03:42:12 17 and in the coding of Thefacebook in
 03:42:15 18 January --
 03:42:16 19 A. Not the coding. Not the coding.
 03:42:17 20 Q. -- 2004. No, let me finish my question.
 03:42:20 21 A. I didn't say that.
 03:42:21 22 Q. Okay. Well, then let me finish the
 03:42:22 23 question, and then you can say, "No, I
 03:42:24 24 didn't say that."
 03:42:24 25 MR. HORNICK: Why don't you let him

03:43:04 1 aspect and prior to the coding of the
 03:43:09 2 website from a conceptual aspect or at least
 03:43:14 3 prior to coding he was involved with the
 03:43:15 4 development of the project, and I know
 03:43:22 5 that -- I cannot say if he was involved with
 03:43:24 6 the code. I don't think he is a programmer.
 03:43:26 7 I can't say that he didn't see the code or
 03:43:28 8 didn't see our ideas.
 03:43:32 9 Q. Okay. So is it correct, sir, that you don't
 03:43:34 10 know whether or not Mr. Saverin had any
 03:43:36 11 involvement at all with the coding of
 03:43:39 12 Thefacebook, correct?
 03:43:40 13 MR. HORNICK: Objection,
 03:43:40 14 mischaracterizes his testimony. You can
 03:43:42 15 answer.
 03:43:43 16 A. I do not know if he had any involvement with
 03:43:45 17 the coding of Thefacebook.
 03:43:46 18 Q. All right. And you say, though, that he was
 03:43:48 19 involved in the business aspect of
 03:43:50 20 Thefacebook; is that right?
 03:43:51 21 A. (No verbal response.)
 03:43:53 22 Q. Yes.
 03:43:53 23 A. Yes.
 03:43:54 24 Q. All right. What's your basis for that
 03:43:55 25 statement?

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03:42:25 1 finish his answer.
 03:42:26 2 MR. HAWK: No, I want him to let me
 03:42:27 3 finish my question. I'm going to let him
 03:42:28 4 finish his answer, all right? But --
 03:42:30 5 MR. HORNICK: All right. Let him
 03:42:32 6 finish his answer.
 03:42:32 7 MR. HAWK: Yeah, but he's got to
 03:42:32 8 let me finish my question.
 03:42:33 9 MR. HORNICK: Well, he was
 03:42:34 10 answering your question from before, and you
 03:42:36 11 interrupted him.
 03:42:36 12 MR. HAWK: All right. You don't
 03:42:37 13 interrupt me, okay?
 03:42:40 14 BY MR. HAWK:
 03:42:40 15 Q. Now, let me put a question --
 03:42:42 16 A. Sure.
 03:42:42 17 Q. -- on the table. Is it your testimony that
 03:42:46 18 Eduardo Saverin was involved in the coding
 03:42:47 19 of Thefacebook at any time? Is that your
 03:42:50 20 testimony, sir?
 03:42:50 21 A. That is not my testimony.
 03:42:52 22 Q. Okay. Do you know what Eduardo Saverin's
 03:42:56 23 role was in Thefacebook in January 2004?
 03:42:58 24 A. I know that he was involved with the
 03:43:03 25 development of the site from a business

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03:43:56 1 A. The basis is that -- well, he touts himself
 03:44:02 2 as the business mind behind Thefacebook. He
 03:44:05 3 touts himself as the CFO of Thefacebook.
 03:44:09 4 And he's also called himself a co-founder
 03:44:12 5 and co-creator, in fact, in some cases
 03:44:15 6 creator of Thefacebook.
 03:44:17 7 Q. And when did he say those things?
 03:44:19 8 A. Various news articles, various -- yeah,
 03:44:23 9 various news articles.
 03:44:28 10 Q. Okay. And you say he's claimed in various
 03:44:30 11 news articles to be the CFO?
 03:44:32 12 A. Uh-huh.
 03:44:32 13 Q. And what else does he claim to be, a
 03:44:34 14 founder?
 03:44:35 15 A. Co-founder, creator, or co-creator.
 03:44:39 16 Q. Okay. All right. Other than Mr. Saverin's
 03:44:46 17 statements that you've read in publicly
 03:44:51 18 available source, do you have any other
 03:44:52 19 sources for your knowledge of what Mr.
 03:44:54 20 Saverin did or didn't do with regard to
 03:44:56 21 Thefacebook?
 03:44:57 22 A. Well, I know that he had told many people on
 03:45:05 23 campus that he was involved with it. He had
 03:45:07 24 sent out many e-mails to people telling them
 03:45:11 25 to sign up for Thefacebook, I mean, outside

03:45:13 1 of print, but those would clearly be the
 03:45:17 2 most obvious examples of his involvement.
 03:45:19 3 Q. Well, have you seen these e-mails that you
 03:45:22 4 say Mr. Saverin sent out?
 03:45:24 5 A. He sent -- I'm certain that he sent e-mails
 03:45:28 6 to his social club --
 03:45:30 7 Q. That wasn't the question. Have you seen the
 03:45:32 8 e-mails that you've testified about that Mr.
 03:45:34 9 Saverin supposedly set out?
 03:45:36 10 A. No, I have not.
 03:45:37 11 Q. Okay. And so you know about these e-mails
 03:45:40 12 from people telling you about them; is that
 03:45:42 13 right?
 03:45:42 14 A. That's correct.
 03:45:43 15 Q. All right. Now, when did Mr. Saverin become
 03:45:45 16 involved with Thefacebook?
 03:45:47 17 A. As I said before, he became involved with
 03:45:49 18 Thefacebook prior to the coding of the site.
 03:45:52 19 Now, if you go by Mr. Zuckerberg's time
 03:45:56 20 line, that would be one week from launch.
 03:46:00 21 We have reason to believe that that's
 03:46:01 22 humanly impossible and that, in fact, we
 03:46:06 23 have -- there are news articles specifically
 03:46:09 24 that say that the concept was derived in the
 03:46:15 25 end of September -- excuse me, December by

03:47:24 1 You don't know that, do you?
 03:47:26 2 A. He -- he was launched as the business CFO of
 03:47:29 3 the website. He says it in very -- early
 03:47:32 4 paper articles that he is the business CFO,
 03:47:36 5 and he's also touted as the co-creator and
 03:47:39 6 co-founder. I don't know exactly what his
 03:47:41 7 role was. I didn't talk to him, you know, I
 03:47:44 8 didn't ask him what his role was, but we can
 03:47:46 9 assume he was --
 03:47:48 10 Q. Well, I don't want to assume anything.
 03:47:49 11 A. Well, we can assume that he was a
 03:47:50 12 co-creator, if you will, or a co-founder,
 03:47:52 13 whatever that is -- whatever you want to
 03:47:53 14 interpret from that.
 03:47:54 15 Q. All right. I guess my question for you,
 03:47:56 16 sir, is, what specifically did Mr. Saverin
 03:47:58 17 do for Thefacebook in January 2004?
 03:48:01 18 A. All I know is that he was a co-founder of
 03:48:06 19 Thefacebook.
 03:48:07 20 Q. Okay. So as far as specific work, specific
 03:48:11 21 tasks, you don't know what Mr. Saverin did
 03:48:14 22 or didn't do for Thefacebook in January
 03:48:17 23 2004; is that fair?
 03:48:18 24 A. That is fair, yes.
 03:48:21 25 Q. And you also don't know how many hours Mr.

03:46:19 1 Mr. Zuckerberg. And given the fact that Mr.
 03:46:22 2 Zuckerberg approached Mr. Saverin prior to
 03:46:25 3 coding, we would assume that it would be
 03:46:27 4 well into, you know -- well, before February
 03:46:30 5 4th that he was involved.
 03:46:32 6 Q. Why -- what's the basis for your testimony
 03:46:36 7 that Mr. Saverin was involved with
 03:46:38 8 Thefacebook prior to coding?
 03:46:40 9 MR. HORNICK: Objection, asked and
 03:46:41 10 answered. You can say it again.
 03:46:42 11 A. Mr. Saverin says in the FM article dated
 03:46:46 12 February 9th, 2005 that Mark Zuckerberg was
 03:46:49 13 a close friend of him and approached him
 03:46:53 14 prior to coding of Thefacebook. That is my
 03:46:56 15 reason for belief.
 03:46:58 16 Q. All right. And what specifically did Mr.
 03:47:01 17 Saverin do? As you said, he was involved in
 03:47:06 18 the business aspect or the conceptual
 03:47:08 19 aspect. What specifically did Mr. Saverin
 03:47:10 20 do for Thefacebook?
 03:47:10 21 A. I cannot say specifically what he did. I
 03:47:14 22 know that, as I said before, I know he was
 03:47:16 23 involved in the business aspects, whatever a
 03:47:18 24 CFO does.
 03:47:22 25 Q. Well, when did Mr. Saverin become the CFO?

03:48:24 1 Saverin spent in January 2004 related to
 03:48:27 2 Thefacebook, correct?
 03:48:28 3 A. That would be correct, yes.
 03:48:35 4 Q. When did Mr. Saverin first become aware of
 03:48:38 5 HarvardConnection?
 03:48:38 6 A. Again, my -- our belief is that --
 03:48:51 7 Q. I don't want your belief. If you don't know
 03:48:53 8 the answer to my question, I want you to
 03:48:55 9 tell me that. What I don't want is your
 03:48:57 10 belief. When did Mr. Saverin first
 03:49:00 11 become -- I'm sorry, when did he first
 03:49:02 12 become aware of HarvardConnection?
 03:49:03 13 A. He -- I don't know. I do not know.
 03:49:09 14 MR. HORNICK: I'll object. That's
 03:49:10 15 not 30(b)(6) testimony.
 03:49:12 16 MR. HAWK: Oh, that's incredibly
 03:49:14 17 30(b)(6) testimony.
 03:49:16 18 MR. HORNICK: I'm not sure how he
 03:49:17 19 can know what was in Mr. Saverin's mind, so
 03:49:19 20 I don't think that's 30(b)(6) testimony.
 03:49:21 21 MR. HAWK: Okay. Well...
 03:49:25 22 BY MR. HAWK:
 03:49:26 23 Q. Did Mr. Saverin ever see any line of source
 03:49:30 24 code for HarvardConnection?
 03:49:30 25 A. I don't know.

03:49:33 1 Q. Did Mr. Saverin ever see any Web page, any
 03:49:37 2 functioning Web page for any version of the
 03:49:39 3 HarvardConnection website?
 03:49:40 4 A. I do not know.
 03:49:45 5 Q. Did Mr. Zuckerberg in January 2004 ever
 03:49:50 6 discuss or otherwise communicate with Mr.
 03:49:53 7 Saverin about HarvardConnection?
 03:49:55 8 MR. HORNICK: Objection. This is
 03:49:56 9 all not 30(b)(6) testimony. None of this
 03:49:59 10 line of questioning is 30(b)(6) testimony.
 03:50:02 11 You can ask this witness --
 03:50:02 12 MR. HAWK: We disagree.
 03:50:03 13 MR. HORNICK: -- as an individual.
 03:50:03 14 MR. HAWK: I'm asking the
 03:50:04 15 questions. If you want to instruct him not
 03:50:06 16 to answer, go ahead.
 03:50:08 17 MR. HORNICK: No, no, no, go ahead,
 03:50:09 18 but it's not 30(b)(6) testimony.
 03:50:11 19 MR. HAWK: Well, we disagree.
 03:50:11 20 BY MR. HAWK:
 03:50:12 21 Q. I'm sorry, let me put the question --
 03:50:12 22 MR. HORNICK: (Unintelligible.)
 03:50:12 23 A. Sure.
 03:50:12 24 Q. -- back out there so you can hear it.
 03:50:14 25 A. Sure.

03:51:15 1 MR. HAWK: I said by anyone, so let
 03:51:17 2 me rephrase question.
 03:51:19 3 A. Sure.
 03:51:19 4 Q. Was Mr. Saverin ever made aware of any of
 03:51:21 5 the HarvardConnection trade secrets you
 03:51:23 6 contend Mr. Zuckerberg allegedly
 03:51:25 7 misappropriated? And let's start with your
 03:51:27 8 counsel. Was he ever made aware of those
 03:51:30 9 supposed trade secrets by Mr. Zuckerberg?
 03:51:32 10 A. I don't know that.
 03:51:35 11 Q. Was Mr. Saverin ever made aware prior to you
 03:51:40 12 accusing Mr. Zuckerberg of misappropriating
 03:51:44 13 HarvardConnection's trade secrets -- well,
 03:51:48 14 strike that. Strike that. Let's come back
 03:51:50 15 to that.
 03:51:50 16 Now, you've looked at TheFacebook
 03:52:04 17 website I think you've testified earlier,
 03:52:06 18 correct?
 03:52:06 19 A. Yeah, I have looked at the website.
 03:52:08 20 Q. And what HarvardConnection trade secrets
 03:52:12 21 have been used in TheFacebook website?
 03:52:15 22 MR. HORNICK: Objection, asked and
 03:52:16 23 answered. You can answer it again.
 03:52:18 24 MR. HAWK: No, it wasn't asked and
 03:52:18 25 answered --

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03:50:14 1 Q. Did Mr. Zuckerberg in January of 2004 ever
 03:50:17 2 discuss or ever communicate -- otherwise
 03:50:19 3 communicate with Mr. Saverin about
 03:50:22 4 HarvardConnection?
 03:50:22 5 A. I don't know.
 03:50:29 6 Q. Did Mr. Saverin write any code for
 03:50:31 7 Thefacebook?
 03:50:32 8 A. I can't answer that.
 03:50:33 9 Q. You can't answer that because you don't
 03:50:34 10 know?
 03:50:34 11 A. Primarily, yeah, because I don't know, yes.
 03:50:43 12 Q. Has Mr. Saverin ever seen any source code
 03:50:46 13 for the TheFacebook?
 03:50:47 14 MR. HORNICK: Objection. This
 03:50:49 15 still isn't 30(b)(6) testimony.
 03:50:50 16 A. Again, I don't know that.
 03:50:59 17 Q. Was Mr. Saverin ever made aware of any of
 03:51:01 18 the HarvardConnection trade secrets that you
 03:51:03 19 contend Mr. Zuckerberg misappropriated?
 03:51:05 20 MR. HORNICK: By whom?
 03:51:08 21 MR. HAWK: By anybody.
 03:51:09 22 MR. HORNICK: Well, by --
 03:51:10 23 Q. Let me --
 03:51:12 24 MR. HORNICK: By HarvardConnection
 03:51:12 25 or by Mr. Zuckerberg or by somebody else?

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03:52:18 1 MR. HORNICK: Not by you.
 03:52:21 2 MR. HAWK: -- but I don't want to
 03:52:21 3 argue with you. No, it wasn't asked and
 03:52:22 4 answered.
 03:52:22 5 MR. HORNICK: Yes, it was today.
 03:52:23 6 BY MR. HAWK:
 03:52:23 7 Q. I want you to listen to the question. I
 03:52:26 8 won't argue with your counsel, but this
 03:52:27 9 question hasn't been asked and answered.
 03:52:28 10 What HarvardConnection trade secrets have
 03:52:30 11 been used in the TheFacebook website based
 03:52:33 12 on your review of TheFacebook website?
 03:52:35 13 MR. HORNICK: Asked and answered.
 03:52:36 14 You can answer it again.
 03:52:37 15 A. The -- as I said, focusing a college -- an
 03:52:42 16 on-line network with multiple purposes onto
 03:52:46 17 a small niche college community and then
 03:52:51 18 branching that out to multiple other schools
 03:52:54 19 and connecting them.
 03:52:56 20 Q. Let's -- I don't want to interrupt you --
 03:52:58 21 A. Sure.
 03:52:58 22 Q. -- but let's just try and go one by one.
 03:53:01 23 A. Okay.
 03:53:01 24 Q. The first one is creation of an on-line
 03:53:04 25 network focused on a college community,

03:53:06 1 right? A social networking website for a
 03:53:12 2 college community?
 03:53:12 3 A. For a college community that students and
 03:53:15 4 alumni can access and use that is not put up
 03:53:19 5 by an administration or student body --
 03:53:24 6 university body.
 03:53:25 7 Q. Okay. So that's No. 1. What's the second
 03:53:33 8 trade secret that you have seen evidenced in
 03:53:35 9 the TheFacebook website, the second
 03:53:38 10 HarvardConnection trade secret?
 03:53:39 11 A. The linkage of multiple campuses with that
 03:53:47 12 type of website.
 03:53:48 13 Q. Are there any others besides these two that
 03:53:55 14 you contend were HarvardConnection trade
 03:53:58 15 secrets that you saw evidenced on
 03:54:00 16 TheFacebook website?
 03:54:01 17 A. I think the information was potentially like
 03:54:18 18 the respective information --
 03:54:20 19 Q. The what information?
 03:54:21 20 A. The respective information that we collected
 03:54:23 21 from users.
 03:54:24 22 Q. Okay. So the information collected from
 03:54:26 23 users. And you --
 03:54:29 24 A. The parameters.
 03:54:29 25 Q. -- earlier testified like, I mean, their

03:55:45 1 HarvardConnection was going to ask for that
 03:55:48 2 TheFacebook misappropriated and put into his
 03:55:50 3 website?
 03:55:50 4 A. The dating information with respect to the
 03:55:53 5 context it's asked in, okay, the information
 03:55:57 6 is asked on a dating site, okay? Is it
 03:55:59 7 asked on a student alumni connection website
 03:56:02 8 based on the college community? No.
 03:56:05 9 Q. Well, I want to get back up to that --
 03:56:08 10 A. Okay.
 03:56:08 11 Q. -- purported --
 03:56:09 12 A. Sure.
 03:56:09 13 Q. -- trade secret. I'm just looking at the
 03:56:11 14 information collected and your contingent
 03:56:13 15 that the information collected was a trade
 03:56:16 16 secret. And what I'm asking you is, was
 03:56:17 17 there anything unique or unusual about the
 03:56:20 18 dating preference information the
 03:56:23 19 Thefacebook asks for --
 03:56:23 20 A. Well, they --
 03:56:24 21 Q. -- suggesting to you that that had been
 03:56:26 22 misappropriated from HarvardConnection?
 03:56:27 23 MR. HORNICK: Objection. This all
 03:56:29 24 calls for legal expertise, but you can
 03:56:32 25 answer.

03:54:32 1 name, right, and the house that they lived
 03:54:34 2 in?
 03:54:34 3 A. No, I actually never said the name. I said
 03:54:37 4 house, you know, someone's house, their
 03:54:42 5 major, their thesis, you know, thesis or
 03:54:45 6 what their interests are, dating
 03:54:51 7 preferences, if they're single, et cetera,
 03:54:53 8 what they're looking for.
 03:54:55 9 Q. Anything else as far as content, asking for
 03:54:59 10 content that you contend was a trade secret
 03:55:01 11 of HarvardConnection that was
 03:55:02 12 misappropriated and went up on TheFacebook
 03:55:06 13 website?
 03:55:06 14 A. That's all I can think of right now.
 03:55:16 15 Q. Okay. Now, this information that was
 03:55:17 16 collected, the house, the major, the thesis,
 03:55:21 17 the dating preferences -- first of all, with
 03:55:23 18 dating preferences, that -- TheFacebook asks
 03:55:29 19 for the same kinds of dating preference
 03:55:31 20 information that other dating -- or that a
 03:55:33 21 dating website asks for, right?
 03:55:35 22 A. There would be some overlap. I mean, there
 03:55:38 23 are similar questions, yes.
 03:55:39 24 Q. Well, is there anything unique in the dating
 03:55:41 25 preference information that

03:56:32 1 A. But a trade -- you're talking about
 03:56:35 2 proprietary -- trademark proprietary
 03:56:37 3 information. You know, if you take a, sort
 03:56:41 4 of a slide, you know, one section of that
 03:56:43 5 information, no, it might not be
 03:56:45 6 proprietary, okay? If you take the whole
 03:56:48 7 package of the information, it absolutely is
 03:56:50 8 proprietary.
 03:56:50 9 So if asking people on a website what
 03:56:52 10 their dating preference is, if the question
 03:56:54 11 is, is that information proprietary? No.
 03:56:57 12 How and in what context you ask that
 03:56:59 13 information, yes.
 03:57:00 14 Q. Well, the context, you're talking about
 03:57:01 15 because it was a social networking site for
 03:57:04 16 campuses, right?
 03:57:04 17 A. Uh-huh.
 03:57:05 18 Q. And I've already -- that's a separate trade
 03:57:05 19 secret --
 03:57:05 20 A. Yeah.
 03:57:09 21 Q. -- as far as the three that you've
 03:57:10 22 identified? Was there --
 03:57:10 23 MR. HORNICK: Objection,
 03:57:11 24 mischaracterizes.
 03:57:12 25 Q. All right. Was there -- in what other way

03:57:18 1 was asking about dating preferences a
 03:57:20 2 proprietary trade secret of
 03:57:23 3 HarvardConnection?
 03:57:23 4 MR. HORNICK: Objection, vague,
 03:57:25 5 indefinite.
 03:57:27 6 MR. HAWK: That's not -- that's
 03:57:28 7 what I'm not understanding.
 03:57:29 8 MR. HORNICK: In what other way, is
 03:57:30 9 your question.
 03:57:31 10 MR. HAWK: All right. Well, fine.
 03:57:32 11 I'll reask the question.
 03:57:33 12 A. So can you reask the question?
 03:57:35 13 Q. Yeah, let me reask the question.
 03:57:37 14 Is your contention that in some way
 03:57:42 15 Thefacebook's -- how it asks for dating
 03:57:44 16 preferences somehow reflected a
 03:57:46 17 misappropriation of trade secrets from the
 03:57:47 18 HarvardConnection, right?
 03:57:48 19 A. Not so much how, but in what context, okay?
 03:57:55 20 We're talking about a college website. So
 03:57:57 21 in the context of a college-based website in
 03:58:01 22 asking for dating stuff, information like
 03:58:03 23 that, yes, that is proprietary.
 03:58:05 24 Q. Okay. So the trade secret that was
 03:58:07 25 misappropriated with regard to content and

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03:58:10 1 asking for dating preferences relates to the
 03:58:13 2 fact that these questions were being asked
 03:58:15 3 on a social networking site aimed at a
 03:58:18 4 college, correct?
 03:58:19 5 A. That would be correct, yes.
 03:58:21 6 Q. Okay. Is there any other way in which
 03:58:24 7 asking for dating preferences would be a
 03:58:28 8 misappropriation of a HarvardConnection
 03:58:30 9 trade secret?
 03:58:31 10 MR. HORNICK: Objection. Vague, I
 03:58:33 11 don't know what you mean.
 03:58:35 12 MR. HAWK: I think the witness
 03:58:35 13 does.
 03:58:36 14 A. Again, the asking of dating information
 03:58:42 15 exclusively on a college level may not be
 03:58:45 16 proprietary. Asking dating information on a
 03:58:48 17 college website when you simultaneously ask
 03:58:52 18 for educational information is proprietary.
 03:58:54 19 So you're trying to take sort of slide
 03:58:57 20 shots, and I'm saying that it's actually a
 03:58:59 21 moving motion picture, so to speak, okay?
 03:59:03 22 It's not a still shot. I mean, if I take
 03:59:06 23 one piece of the puzzle, it's an
 03:59:08 24 interconnected thing.
 3:59:14 25 Q. So there weren't any particular parts of

03:59:18 1 HarvardConnection that were in and of
 03:59:20 2 themselves innovative and trade secrets, it
 03:59:24 3 was the whole package together that was
 03:59:26 4 innovative and a trade secret. Is that
 03:59:29 5 basically your position?
 03:59:30 6 A. To my knowledge -- my position is that the
 03:59:32 7 core and togetherness of the packaging of
 03:59:36 8 those features was definitely a trade
 03:59:39 9 secret. Now, it was our belief, you know,
 03:59:45 10 there was a situa -- yeah, that's my belief,
 03:59:47 11 that the whole package was a trade secret,
 03:59:49 12 yes.
 03:59:49 13 Q. So in and of itself, asking for dating
 03:59:51 14 preferences, that was not a trade secret of
 03:59:56 15 HarvardConnection at any time, correct?
 03:59:58 16 That had been done by a lot of other
 04:00:00 17 websites, right?
 04:00:01 18 A. Asking for dating preferences is not --
 04:00:03 19 yeah, that would not be proprietary.
 04:00:03 20 Q. That's not a trade secret, right?
 04:00:08 21 A. Yes.
 04:00:08 22 Q. And asking for a person's house at Harvard
 04:00:12 23 that they live in or their major or their
 04:00:14 24 thesis, those are not trade secrets on a
 04:00:18 25 college website, to ask that kind of

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04:00:20 1 information on a college website? Would you
 04:00:23 2 agree with me?
 04:00:23 3 MR. HORNICK: Objection,
 04:00:24 4 mischaracterizes.
 04:00:25 5 A. I --
 04:00:25 6 Q. In and of -- in and of themselves?
 04:00:27 7 MR. HORNICK: Objection. What kind
 04:00:29 8 of a question that?
 04:00:31 9 MR. HAWK: It's a good one.
 04:00:35 10 MR. HORNICK: In and of themselves
 04:00:36 11 is a question?
 04:00:37 12 MR. HAWK: You know what?
 04:00:40 13 MR. HORNICK: He's already given
 04:00:41 14 you an answer.
 04:00:38 15 MR. HAWK: You're interfering with
 04:00:39 16 the deposition, okay?
 04:00:40 17 MR. HORNICK: He's already given
 04:00:41 18 you an answer.
 04:00:43 19 MR. HAWK: Just make your
 04:00:44 20 objection, all right? If you have an
 04:00:44 21 objection, just make it, but let me
 04:00:46 22 cross-examine the witness, all right?
 04:00:47 23 You'll --
 04:00:48 24 MR. HORNICK: I asked you if that
 04:00:49 25 was a question.

04:00:49 1 MR. HAWK: Yeah, but that's not an
04:00:51 2 objection. You can object to my questions.
04:00:54 3 I don't want to get into banter like this
04:00:56 4 back and forth. If you have an objection,
04:00:58 5 just state it. Otherwise, I'm going to
04:01:01 6 conduct the examination of the witness.

04:01:02 7 MR. HORNICK: And if you ask
04:01:03 8 questions like, I'll ask you if that's
04:01:05 9 really --

04:01:05 10 MR. HAWK: All right. Well, that's
04:01:05 11 improper. You're interfering with the
04:01:06 12 deposition.

04:01:06 13 MR. HORNICK: Ask proper questions,
04:01:08 14 Robert. You'll be fine.

04:01:09 15 MR. HAWK: No, John, I'm not going
04:01:10 16 to -- I'm not going to get into this with
04:01:11 17 you. We'll -- you know, if we're going to
04:01:12 18 have to have motion practice to keep you
04:01:13 19 from interfering with the deposition, we'll
04:01:16 20 do it.

04:01:16 21 MR. HORNICK: Go ahead and ask your
04:01:18 22 questions.

04:01:18 23 MR. HAWK: Yea, I'm going to go
04:01:19 24 ahead and ask my question, if I can remember
04:01:22 25 what it was after all that.

04:02:27 1 you think one of your protectable trade
04:02:29 2 secrets is the fact that you intended to ask
04:02:34 3 Harvard University students on a website to
04:02:35 4 list their house, their major and their
04:02:37 5 thesis; is that fair?
04:02:38 6 A. Coupled with the other features. I mean,
04:02:44 7 okay, in and of itself asking someone what
04:02:47 8 their major is on a website is not
04:02:51 9 protectable, okay?
04:02:52 10 Q. All right. And is the same true for asking
04:02:54 11 someone what their major is or what their
04:02:56 12 thesis was?

04:02:57 13 MR. HORNICK: Objection, asked and
04:02:58 14 answered that was his prior answer.

04:02:59 15 A. I don't think asking someone for their
04:03:01 16 thesis had ever been done on a website.

04:03:05 17 Q. So you think that was a protectable --

04:03:05 18 A. That would --

04:03:07 19 Q. -- trade secret?

04:03:07 20 A. That would be protectable, and the ability
04:03:09 21 as we talked about to upload a thesis and a
04:03:12 22 resume, I believe that those would have been
04:03:14 23 protectable and had not been done before.

04:03:16 24 Q. Okay. All right. Now, have you seen
04:03:18 25 anything subsequent to -- well, at any time

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04:01:25 1 BY MR. HAWK:
04:01:26 2 Q. Isn't it fair to say, Mr. Winklevoss, that
04:01:28 3 in the context of a college website, there's
04:01:31 4 nothing novel or worthy of being what you
04:01:36 5 would understand a trade secret to ask
04:01:39 6 visitors their house or their major or their
04:01:41 7 thesis? That in and of itself would not be
04:01:47 8 a trade secret?

04:01:48 9 A. Well, at the time of our relationship with
04:01:49 10 Mr. Zuckerberg we were unaware of any other
04:01:51 11 public instance where -- that that was --
04:01:55 12 that asking for that information had been
04:01:57 13 done before. And let me further reiterate
04:02:00 14 that asking for that information is not all
04:02:04 15 that we did. We asked for a full range of
04:02:07 16 information.

04:02:08 17 Q. Right. But I was just going to the specific
04:02:13 18 content that you had -- that you had
04:02:14 19 mentioned, the house, the major and the
04:02:16 20 thesis.

04:02:19 21 A. We were under the impression that there was
04:02:20 22 no public instance at that time for that
04:02:21 23 information on a college website social
04:02:24 24 network, yes.

04:02:25 25 Q. So you thought that it was one of your --

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04:03:25 1 that has informed you that there were other
04:03:28 2 websites out there on other college campuses
04:03:32 3 asking students for information like their
04:03:34 4 major and their thesis prior to the launch
04:03:37 5 of Thefacebook?

04:03:40 6 A. No website prior to the launch of
04:03:42 7 TheFacebook stringed in all of the
04:03:44 8 components that HarvardConnection did in a
04:03:46 9 proprietary manner such as we did, no.

04:03:52 10 MR. HAWK: Sorry, could you --

04:03:53 11 A. No website -- no website.

04:03:54 12 MR. HORNICK: If you're finished,
04:03:55 13 you're finished, and he can read back the
04:03:57 14 answer.

04:03:57 15 THE WITNESS: Oh, sure.

04:03:58 16 Q. Yeah, I was just going to ask her to read it
04:04:00 17 back.

04:04:04 18 A. Oh, sorry.

04:04:04 19 (Record read.)

04:04:20 20 Q. Okay. That wasn't my question about what a
04:04:22 21 launch site did prior to the --

04:04:25 22 A. Or any site for that matter, any college-
04:04:27 23 based site, yes.

04:04:28 24 Q. So no college-based site asked -- and this
04:04:31 25 is true today, as far as you know, that no

04:04:34 1 college site, or site focused on colleges,
 04:04:38 2 asked the site visitors to provide
 04:04:41 3 information about their major or their
 04:04:44 4 thesis?
 04:04:44 5 A. That's not what I said. I said no site, to
 04:04:49 6 our knowledge today, prior to the launch of
 04:04:52 7 Thefacebook string together all of the
 04:04:55 8 components that we had for
 04:04:57 9 HarvardConnection. Whether -- you know, and
 04:04:58 10 those components, we've gone over some of
 04:05:00 11 those components --
 04:05:00 12 Q. Right.
 04:05:02 13 A. -- the dating information and the --
 04:05:03 14 Q. See, that's where we're having a problem
 04:05:06 15 because I'm trying to look at each one of
 04:05:07 16 these components individually.
 04:05:09 17 A. But you already asked me that question prior
 04:05:11 18 to this question. This is supposed to be
 04:05:13 19 the recap question where you ask me all of
 04:05:17 20 them together.
 04:05:17 21 Q. All right. Let me try it again. Let me try
 04:05:18 22 it again. We may just be miscommunicating,
 04:05:21 23 and it may well be my questions.
 04:05:22 24 Prior to the launch of Thefacebook,
 04:05:24 25 are you aware that there were other sites

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4:05:26 1 aimed at college campuses that asked website
 04:05:31 2 visitors for information about their major
 04:05:32 3 or their thesis?
 04:05:33 4 A. There were, yes.
 04:05:34 5 Q. Okay. Fine.
 04:05:35 6 A. Okay.
 04:05:35 7 Q. Now, let's talk about the idea of an on-line
 04:05:40 8 network focused on a college community.
 04:05:43 9 A. Okay.
 04:05:43 10 Q. Prior to the launch of Thefacebook there
 04:05:46 11 were other on-line communities, social
 04:05:50 12 networking sites focused on college
 04:05:53 13 communities, correct?
 04:05:54 14 A. A college community, yes.
 04:05:56 15 Q. Right. Okay. All right. And that was
 04:05:59 16 No. 1, right?
 04:05:59 17 A. Okay.
 04:06:00 18 Q. No. 2 was the linkage of the multiple
 04:06:02 19 campuses, right?
 04:06:03 20 A. Right.
 04:06:03 21 Q. And prior to the launch of Thefacebook, was
 04:06:08 22 there any other website ever launched, a
 04:06:13 23 social networking site aimed at college
 04:06:15 24 communities that linked more than one
 1:06:20 25 campus?

04:06:20 1 A. No, I don't believe so.
 04:06:38 2 Q. Okay. Now, you testified earlier you are
 04:06:40 3 aware of the MIT Matchup --
 04:06:45 4 A. Uh-huh.
 04:06:45 5 Q. -- website, right?
 04:06:45 6 A. Yeah.
 04:06:45 7 Q. Correct?
 04:06:47 8 A. Yeah.
 04:06:47 9 Q. And it's your understanding that that
 04:06:50 10 website linked MIT, Harvard and Wellesley?
 04:06:52 11 A. No, I didn't -- I was unaware of that, and I
 04:06:56 12 also believe that MIT Match (sic) was not a
 04:06:58 13 social network. I believe MIT Match was --
 04:07:01 14 my understanding is it's purely a dating
 04:07:03 15 site.
 04:07:03 16 Q. Okay.
 04:07:05 17 A. So, again, it's missing pieces of the
 04:07:08 18 puzzle.
 04:07:09 19 Q. All right. Well, let's shift gears a little
 04:07:21 20 bit, then. Has there ever been more than
 04:07:23 21 one version of the HarvardConnection source
 04:07:26 22 code?
 04:07:26 23 A. I believe it's been one version that's been
 04:07:29 24 constantly worked on, yeah.
 04:07:31 25 Q. Okay. So you're not aware of there having

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04:07:36 1 been version 1, version 2 --
 04:07:37 2 A. No.
 04:07:37 3 Q. -- separate versions?
 04:07:39 4 A. I'm not aware of that, no.
 04:07:45 5 Q. So you are aware that your attorneys sought
 04:07:47 6 a copyright registration for the
 04:07:50 7 HarvardConnection source code, correct?
 04:07:51 8 A. Yes.
 04:07:54 9 Q. Okay. And so these attorneys, where did
 04:07:59 10 they get the copy of the source code that
 04:08:03 11 was deposited with the copyright office?
 04:08:06 12 Did they get that from you?
 04:08:07 13 A. I believe that that code was -- we received
 04:08:13 14 the latest version of the code, or the most
 04:08:15 15 complete, that basically included everybody
 04:08:18 16 who had worked on it, you know, because, as
 04:08:22 17 I said, it was one work in progress. And I
 04:08:24 18 believe Victor Gao procured it. He had the
 04:08:30 19 full code, and it was turned over to our
 04:08:32 20 attorneys.
 04:08:32 21 Q. Mr. Gao had the full code. Where did he
 04:08:35 22 have it?
 04:08:35 23 A. I believe he downloaded the full code in
 04:08:39 24 February of 2004, post-facebook launch from
 04:08:44 25 the server and had it on his hard drive.

04:08:48 1 Q. And that is the code that was printed out
 04:08:50 2 and that you gave to your attorneys to be
 04:08:52 3 deposited with the copyright office,
 04:08:53 4 correct?
 04:08:54 5 A. Yes.
 04:08:54 6 Q. All right. Did you -- are you aware that
 04:08:57 7 any deletions or omissions were made from
 04:09:01 8 what Mr. Gao provided as the
 04:09:05 9 HarvardConnection code before it was
 04:09:07 10 deposited with the copyright office?
 04:09:09 11 A. No. We asked him for the complete code.
 04:09:10 12 MR. HORNICK: But I should say that
 04:09:11 13 the witness might not be aware of deletions
 04:09:14 14 that were made.
 04:09:15 15 A. To my knowledge, there were no deletions
 04:09:16 16 made.
 04:09:17 17 Q. Right. Now, as you sit here, is it correct
 04:09:24 18 that you do not know what contributions, if
 04:09:26 19 any, Mr. Zuckerberg made to the
 04:09:28 20 HarvardConnection code, correct?
 04:09:34 21 A. Well, I have e-mails indicating that he had
 04:09:36 22 basically -- in fact, to my knowledge from
 04:09:39 23 his e-mail, he completed the connect side,
 04:09:42 24 the Harvard -- of the HarvardConnection
 04:09:46 25 code. We were never given that code.

04:10:52 1 write that are now a part of the
 04:10:54 2 HarvardConnection code?
 04:10:54 3 A. I don't know that off the -- I just don't
 04:10:58 4 know that.
 04:10:59 5 Q. And I mean, it could be several hundred,
 04:11:02 6 correct?
 04:11:02 7 A. Mr. Gao was under the impression, based on
 04:11:07 8 looking at the code, that he had been on
 04:11:11 9 there for no more than two hours, and the
 04:11:14 10 majority of the work that he did was
 04:11:16 11 actually taking code Mr. Gao wrote and
 04:11:19 12 copying it and putting in names, various
 04:11:23 13 connect names.
 04:11:24 14 Q. But -- all right. But -- fair enough. But
 04:11:27 15 my question was different. My question was,
 04:11:29 16 you don't know that -- you don't know --
 04:11:33 17 first of all, I think you've already
 04:11:35 18 testified -- let me make sure -- you don't
 04:11:38 19 know how many lines of code that Mr.
 04:11:39 20 Zuckerberg contributed to the
 04:11:42 21 HarvardConnection code that has been filed
 04:11:45 22 with the copyright office, correct?
 04:11:47 23 A. That --
 04:11:47 24 MR. HORNICK: Objection. That --
 04:11:49 25 no Zuckerberg code that I know of has been

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04:09:48 1 Q. Well, how do you know that you weren't given
 04:09:50 2 the code? How do you know that -- let me
 04:09:52 3 just finish the question --
 04:09:54 4 A. Sure.
 04:09:54 5 Q. -- or ask a different one?
 04:09:55 6 A. Sure.
 04:09:56 7 Q. How did you know that Mr. Zuckerberg did not
 04:09:58 8 download the work that he had done onto the
 04:10:00 9 server containing the HarvardConnection
 04:10:03 10 code?
 04:10:03 11 A. Sorry, your question is, how do I know that
 04:10:07 12 he did not download the work?
 04:10:09 13 Q. How do you know that he did not -- that the
 04:10:14 14 HarvardConnection code on the server did not
 04:10:16 15 reflect changes made by Mr. Zuckerberg?
 04:10:18 16 A. Victor Gao said that the changes -- the
 04:10:23 17 completion that he spoke of was not present
 04:10:26 18 on the server, according to Victor Gao.
 04:10:29 19 Q. Okay. Did Mr. Gao tell you that based on
 04:10:33 20 his inspection, Mr. Zuckerberg had made no
 04:10:36 21 contributions to the HarvardConnection code?
 04:10:39 22 A. Mr. Gao told me that Mr. Zuckerberg made
 04:10:42 23 very minor and minimal changes or additions
 04:10:48 24 to the HarvardConnection code.
 04:10:49 25 Q. How many lines of code did Mr. Zuckerberg

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04:11:51 1 published --
 04:11:52 2 MR. HAWK: Hey, you're not
 04:11:54 3 testifying here. If you have an objection,
 04:11:56 4 you just go ahead, buddy, but look, don't
 04:11:57 5 interfere.
 04:11:57 6 MR. HORNICK: You're asking a
 04:11:57 7 question --
 04:11:58 8 MR. HAWK: Don't coach your --
 04:11:58 9 don't coach your witness.
 04:11:58 10 MR. HORNICK: -- he can't answer.
 04:11:59 11 MR. HAWK: Don't coach the witness.
 04:12:01 12 MR. HORNICK: And it wasn't a true
 04:12:02 13 question. When we --
 04:12:02 14 MR. HAWK: If you have an
 04:12:02 15 objection, just -- you're interfering with
 04:12:03 16 the deposition.
 04:12:05 17 MR. HORNICK: Ask your question.
 04:12:06 18 MR. HAWK: I -- well, if you would
 04:12:07 19 stop interrupting, I would ask the question.
 04:12:10 20 MR. HORNICK: I can't stop inter --
 04:12:11 21 you've got to be -- you've got to --
 04:12:11 22 MR. HAWK: No, I don't have to do
 04:12:11 23 anything --
 04:12:12 24 MR. HORNICK: -- ask questions,
 04:12:12 25 Robert.